



राजपत्र, हिमाचल प्रदेश

हिमाचल प्रदेश राज्य शासन द्वारा प्रकाशित

खण्ड : 48

शिमला, शनिवार, 25 मार्च, 2000/5 चैत्र, 1922

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25 मार्च, 2000/5 चैत्र, 1922 को समाप्त होने वाले सप्ताह में निम्नलिखित विज्ञप्तियां 'सप्ताधारण राजपत्र, हिमाचल प्रदेश' में प्रकाशित हुईं :—

विज्ञप्ति की संख्या	विभाग का नाम	विषय
संख्या गृह (ए) एक (13) 1/93 दिनांक 14 मार्च, 2000.	गृह विभाग	भारत सरकार द्वारा अपने सरकारी व्यवहार में गांव खानो, तहसील पूह, जिला किन्नौर में भारत-तिब्बत सीमा पुलिस की अधिम चौकी हेतु भूमि अर्जित करने बारे।
संख्या एल० एल० आर० डी० (6)- 1/2000-लेज, दिनांक 22 मार्च, 2000.	विधि विभाग विधायी (अंग्रेजी) शाखा	राज्यपाल महोदय द्वारा तारीख 16 मार्च, 2000 को यथा अनुमोदित हिमाचल प्रदेश विनियोग अधिनियम, 2000 (2000 का अधिनियम संख्यांक 5) इसके अंग्रेजी रूपान्तरण सहित।

भाग--1-वैधानिक नियमों को छोड़कर हिमाचल प्रदेश के राज्यपाल और हिमाचल प्रदेश हाई कोर्ट द्वारा अधिलेखनाएं इत्यादि
हिमाचल प्रदेश हाई कोर्ट

NOTIFICATIONS

Shimla-1, the 2nd/6th March, 2000

No. HHC/GAZ/14-99/80-4200.—The Hon'ble High Court orders the confirmation of the following members of the Himachal Pradesh Judicial Service who have passed the Departmental Examination and have satisfactorily completed their period of probation, with effect from the date shown against each:—

Sl. No.	Name of the officer	Date from which confirmed
1.	Shri Pardeep Singh Samyal	5-1-2000
2.	Shri Ajay Mehta	5-1-2000
3.	Shri Krishan Kumar	5-1-2000

The confirmation of the above Judicial Officers will not affect the *inter se* seniority of the members of the H. P. Judicial Service of their batch which shall be determined in accordance with the Rules.

Shimla-1, the 3rd/6th March 2000

No. HHC/GAZ/14-99/80-I-4213.—Whereas Shri Pune Ram, a member of the Himachal Pradesh Judicial Service having been appointed to the said service vide H. P. Government Notification No. Home-B(A)-1/95-III, dated 17-12-1997, has not so far been able to qualify the Departmental Examination.

Therefore, having regard to his overall performance, the Hon'ble High Court is pleased to extend the period for passing the Departmental Examination by one year on and w. e. f. 29-12-1999, under sub-rule 2 (b) of Rule 5, Section-C, Part-III of the H. P. Judicial Service Rules, 1973. The Hon'ble High Court is further pleased to extend his period of probation by one year on and with effect from 29-12-1999, under sub-rule 2(b) of Rule 5, Section-C, Part-III of the H. P. Judicial Service Rules, 1973 in order to enable him to avail the chance(s) to pass the Departmental Examination, during the extended period of probation.

Shimla-1, the 6th March, 2000

No. HHC/Admn. 3 (80)/75-I-4243.—The Hon'ble Chief Justice is pleased to sanction 10 days earned leave w. e. f. 6-3-2000 to 15-3-2000 with permission to prefix Sunday/holidays falling on 4-3-2000 & 5-3-2000 in favour of Shri Krishan Gopal Sharma, Court Secretary of this High Court.

Certified that Sh. Krishan Gopal Sharma is likely to join the same post and at the same station from where he proceeds on leave after expiry of the above leave period.

Certified that Sh. Krishan Gopal Sharma would continue to officiate the same post from where he proceeds on leave.

Shimla-1, the 6/7th March, 2000

No. HHC/Admn. 16(15)74-II-4336.—Hon'ble the Chief Justice in exercise of the power vested in him u/s 139 (b) of the Code of Civil Procedure, 1908, u/s 297(b) of the Code of Criminal Procedure, 1973 and Rule 4 (iv) of the H.P. Oath Commissioners (Appointment and Control) Rules, 1996 is pleased to appoint the following Advocates as Oath Commissioners at Kandaghat, District Solan for a period of two years with effect from the date(s) shown against their names, for administering

oath and affirmations on affidavits to deponents, under the aforesaid Codes and Rules:—

Sl. No.	Name of Advocate	Date of appointment
1.	Ms. Sheetal Bansal	11-3-2000
2.	Mr. Anup Singh Verma	30-4-2000

By order,
Sd/-
Registrar General.

Shimla-1, the 9/10th March, 2000

No. HHC/Admn. 6 (24) 74-V-4641.—The High Court of Himachal Pradesh, in exercise of the powers vested u/s 12 (2) of the Code of Criminal Procedure, 1973 is pleased to appoint the Sub Judge-cum-SDJM, Rampur Bushahr as Additional Chief Judicial Magistrate for Kinnaur district for the disposal of urgent work pertaining to the Court of Senior Sub Judge-cum-Chief Judicial Magistrate, Kinnaur at Reckong-Peo during the leave period of Shri R. K. Mittal, Senior Judge-cum-C.J.M., Kinnaur at Reckong-Peo w. e. f. 6-3-2000 to 19-3-2000 or until he returns from leave.

By order,
Sd/-
Registrar (Vigilance).

Shimla-1, the 9/10th March, 2000

No. HHC/Admn. 3/35/73-I-4686.—The Hon'ble Chief Justice is pleased to sanction *ex-post-facto* 8 days earned leave (extended period) on and w. e. f. 12-2-2000 to 19-2-2000 with permission to suffix holidays falling on 20-2-2000 in favour of Shri G. L. Sharma, Court Secretary on this court.

Certified that Shri G. L. Sharma, Court Secretary has joined the same post and at the same station from where he had proceeded on leave after expiry of the above leave period.

Certified that Shri G. L. Sharma, Court Secretary would have continued to officiate/hold the same post from where he proceeded on leave.

By order,
Sd/-
Registrar General.

Shimla-1, the 9/10th March, 2000

No. HHC/Admn. 6(23)/74-XI-4651.—Hon'ble the Chief Justice in exercise of the powers vested in him under rule 1.26 of H.P. Financial Rules, 1971, Volume-I, is pleased to declare the Sub Judge-cum-SDJM, Rampur Bushahr as Drawing and Disbursing Officer in respect of the court of Senior Sub Judge-cum-CJM, Kinnaur and also the Controlling Officer for the purpose of T.A. etc. in respect of class-III and IV establishment attached to the aforesaid court under head "2014—Administration of Justice" during the leave period of R. K. Mittal, Senior Sub-Judge-cum-CJM, Kinnaur with effect from 6-3-2000 to 19-3-2000, or until he returns from leave.

By order,

Sd/-
Registrar (Vigilance).

Shimla-1, the 10th March, 2000

No. HHC/GAZ/Admn. 3 (135)/79-II-4693.—Hon'ble the Chief Justice is pleased to sanction 8 days earned leave on and with effect from 18-3-2000 to 25-3-2000 with permission to prefix holiday falling on 17-3-2000 and

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suffix Sunday falling on 26-3-2000 in favour of Shri Inder Singh, Secretary of this High Court.

Certified that Shri Inder Singh, Secretary is likely to join the same post and at the same station from where he proceeds on leave, after expiry of the above leave period.

Certified that Shri Inder Singh, Secretary would continue to officiate the same post from where he proceeds on leave.

Shimla-1, the 10th March, 2000

No. HHC/Admn. 16/774-V-4675.—Hon'ble the Chief Justice, in exercise of the powers vested in him u/s 139 (b) of the Code of Civil Procedure, 1908, u/s 297(b) of the Code of Criminal Procedure, 1973, and rule 4(i) of the Himachal Pradesh Oath Commissioners (Appointment and Control) Rules, 1996 is pleased to appoint S/Shri Rajesh Kumar and Sanjay Goaswami Advocates, Baijnath, District Kangra H. P. as Oath Commissioners at Baijnath, District Kangra H. P. for a period of 2 years with immediate effect, for administering oaths and affirmations on affidavits to the deponents under the aforesaid Codes and Rules.

Shimla-1, the 10th March, 2000

No. HHC/GAZ-1-1/74-VI-4704-17.—In exercise of the powers vested under Article 229 of the Constitution of India read with High Court of Himachal Pradesh (Recruitment, Conditions of Service and Conduct) Rules, 1997 and all other powers enabling in this behalf, the Hon'ble the Chief Justice is pleased to promote Shri R. L. Mehta, Superintendent to the post of Assistant Registrar in the pay scale of Rs. 10025-275-10300-340-12000-375-13500-400-15100 with immediate effect.

Shimla-1, the 13th March, 2000

No. HHC/Admn. 28 (27)/80-4352-79.—Consequent upon the appointment of Mrs. Aruna Kapoor, a member of the Himachal Pradesh Higher Judicial Service, presently posted as District and Sessions Judge, Solan, as Presiding Officer Labour Court/Industrial Tribunal, Himachal Pradesh at Shimla vide Government Notification No. 19-15/90-Shram, dated 3-3-2000, the Hon'ble the High Court hereby orders that Mrs. Aruna Kapoor shall stand relieved from her present assignment as District and Sessions Judge, Solan with immediate effect, so as to enable her to take over the new assignment on the terms and conditions stipulated in the State Government's notification referred to above.

Mrs. Aruna Kapoor may avail usual joining time, if so desired by her.

Shimla-1, the 13th March, 2000

No. HHC/GAZ/1-1/74-VI-4816-29.—In exercise of the powers vested under Article 229 of the Constitution of India read with High Court of Himachal Pradesh (Recruitment, Conditions of Service and Conduct) Rules, 1997 and all other powers enabling in this behalf the Hon'ble the Chief Justice is pleased to promote Shri Gopal Dass, Revisor to the post of Superintendent in the pay scale of Rs. 7220-220-8100-275-10300-340-11660 with immediate effect.

By order,

Sd/-
Registrar General.

OFFICE OF THE ADVOCATE GENERAL

NOTIFICATION

Shimla-1, the 9th March, 2000

No. 1-27/93-2124.—Ex-post-facto sanction is hereby accorded to the grant of three days earned leave from

21-2-2000 to 23-2-2000 in favour of Shri Vivek Singh Thakur, Assistant Advocate General of this department, with permission to avail Sunday falling on 26-2-2000.

Certified that Shri Thakur would have continued to officiate as such.

Certified also that said Shri Thakur was likely, on the expiry of leave to return for duty to the station, from where he proceeded on leave.

Sd/-
Advocate General.

हिमाचल प्रदेश सरकार

PERSONNEL (A-I) DEPARTMENT

NOTIFICATIONS

Shimla-171002, the 26th February, 2000

No. Per. (A-I) B (3) 10/98.—The Governor, Himachal Pradesh, in exercise of the powers conferred by Rule 56 (d) of the Fundamental Rules is pleased to allow extension in service for a period of two months w.e.f. 1-3-2000 to 30-04-2000 in favour of Dr. P. R. Negi, Director of Animal Husbandry, Himachal Pradesh in the public interest. Dr. P. R. Negi who is retiring from the Government Service on attaining the age of superannuation on 29-2-2000 (A.N.) shall now retire from Government service on 30-04-2000 (A. N.)

This issues with prior concurrence of the Finance Department, obtained vide their Dy. No. 222-Fin. (C)B (15)4/95 dated 26-2-2000.

By order,

Sd/-
Chief Secretary.

Shimla-171032, the 23th February, 2000

No. 10-1/72-DP-Appnt.—In exercise of the powers vested in him under sub-section (I) of the Section 20 of the Code of Criminal Procedure, 1973, the Governor, Himachal Pradesh, is pleased to appoint Shri Jagat Ram, Nijb-Tehsildar, Holi, District Chamba to be Executive Magistrate with the powers of Executive Magistrate under the said code to be exercised within the local limits of Tehsil Holi with immediate effect. However in view of the instructions contained in the Home Department's Himachal Pradesh Government letter No. Home-B(B)12-5/84 dated 4-12-1984 and 28-12-1984 further, he shall not take cognizance of, inquire into and try the cases arising under Criminal Procedure Code which involve recording of evidence, shifting of evidence application of mind and issue of orders etc. He shall cease to function as Executive Magistrate on his transfer out of this jurisdiction.

Sd/-
Chief Secretary.

Shimla-2, the 3rd March, 2000

No. Per. (AP)-AB(3-3)/2000.—The Governor, Himachal Pradesh is pleased to order that Shri Purn Chandel Gupta, Chief Engineer, H.P. Nagar Vikas Pradhikaran, Shimla, shall retire from Government service on 30-6-2000 (A.N.) on attaining the age of superannuation.

Shimla-2, the 3rd March, 2000

No. Per. (A-I)-B(3)19/85-II.—The Governor, Himachal Pradesh is pleased to order that Shri Shakti Singh Chandel IAS (HP 84) Director, H. P. Institute of Public Administration, Fairlawns, Shimla, shall retire from Government service on 30-9-2000 (A.N.) on attaining the age of superannuation.

Shimla-2, the 3rd March, 2000

No. Per. (AP)-B (3) 47/77-Vol. II.—The Governor of Himachal Pradesh is pleased to order that Shri Nipendra Chand Sud, IAS (HP : 84) Managing Director, H.P. State Financial Corporation, Shimla, shall retire from Government service on 31-12-2000 (A.N.) on attaining the age of superannuation.

By order,
Sd/-
Chief Secretary.

Shimla-2, the 3rd March, 2000

No. 10-6/72-DP. Apptt.—In exercise of the powers vested in him under sub-section (I) of the Section 20 of the Code of Criminal Procedure, 1973, the Governor, Himachal Pradesh is pleased to appoint the following HAS Probationers to be Executive Magistrates with the powers of Executive Magistrate under the said code to be exercised within the local limits of their respective jurisdictions as shown against their names during the district training w.e.f. 2-2-2000 to 31-5-2000 subject to the conditions contained in the Home Department's Himachal Pradesh Government letter No. Home B(B)12-5/84, dated 4-12-84 and 28-12-84. They shall cease to function as Executive Magistrate on 31-5-2000.

Sl. No.	Name of Probationer	Local Limits
1.	Dr. Rakesh Kapoor	District Sirmaur
2.	Sh. Yash Paul Sharma	District Sirmaur
3.	Sh. Duni Chand Rana	District Kangra
4.	Sh. Rohit Jambal	District Shimla
5.	Sh. Anupam Kashyap	District Solan
6.	Sh. Ashwani Kumar Sharma	District Hamirpur

Shimla-171 002, the 4th March, 2000

No. Per (A-I) A (2)-1/90.—In exercise of the powers vested in him under sub-section (I) of Section 20 of the Code of Criminal Procedure, 1973, the Governor, Himachal Pradesh is pleased to appoint Shri Keshav Ram, "A" Class Naib Tehsildar (Prop) at Kandaghat to be Executive Magistrate with the powers of Executive Magistrate under the said code to be exercised within the local limits of Tehsil Kandaghat with immediate effect, subject to the conditions contained in the Home Department's Himachal Pradesh Government letter No. Home-B(B)-12-5/84, dated 4-12-1984 and 28-12-1984. He shall cease to function as Executive Magistrate on his transfer out of this jurisdiction.

Shimla-171 002, the 4th March, 2000

No. 10-4/73-DP-Apptt.—In exercise of the powers vested in him under sub-section (I) of the Section 20 of the Code of Criminal Procedure, 1973, the Governor, Himachal Pradesh is pleased to appoint Shri Sita Ram, Tehsildar, Barsar, District Hamirpur to be Executive Magistrate with the powers of Executive Magistrate under the said code to be exercised within the local limits of Tehsil Barsar with immediate effect subject to the conditions contained in the Home Department's Himachal Pradesh Government letter No. Home-B (B)12-5/84, dated 4-12-1984 and 28-12-1984. He shall cease to function as Executive Magistrate on his transfer out of this jurisdiction.

Sd/-
Chief Secretary.

Shimla-171 002, the 7th March, 2000

No. 1-15/74-Dp-Apptt.-IV.—On the recommendations of the Departmental Promotion Committee, the Governor, Himachal Pradesh is pleased to order the promotion of Dr. Shyam Sunder as Director of Education, Himachal Pradesh in the pay scale of Rs. 4500—7300 plus Rs. 500/- special pay (pre-revised), on regular basis with immediate effect.

2. Dr. Shyam Sunder will be on probation for a period of two years or till retirement whichever is earlier.

By order,

A. K. GOSWAMI,
Chief Secretary.

Shimla-171 002, the 7th March, 2000

No. 10-1/72-Dp-Apptt.—In exercise of the powers vested in him under sub-section (I) of Section 20 of the Code of Criminal Procedure, 1973, the Governor, Himachal Pradesh is pleased to appoint Shri Ram Sawrup Sharma, Tehsildar Bhattiyat, District Chamba to be Executive Magistrate with the powers of Executive Magistrate under the said code to be exercised within the local limits of Tehsil Bhattiyat, District Chamba with immediate effect, subject to the conditions contained in the Home Department's Himachal Pradesh Government letter No. Home-B(B)-12-5/84, dated 4-12-1984 and 28-12-1984. He shall cease to function as Executive Magistrate on his transfer out of this jurisdiction.

Shimla-171 002, the 13th March, 2000

No. 10-2/72-Dp-Apptt.-III.—In exercise of the powers vested in him under sub-section (I) of Section 20 of the Code of Criminal Procedure, 1973, the Governor, Himachal Pradesh is pleased to appoint Shri Som Nath Sharma, Naib Tehsildar, Dehra, District Kangra to be Executive Magistrate with the powers of Executive Magistrate under the said code to be exercised within local limits of Tehsil Dehra, District Kangra with immediate effect, subject to the conditions contained in the Home Department's Himachal Pradesh Government letter No. Home-B(B)-12-5/84, dated 4-12-1984 and 28-12-1984. He shall cease to function as Executive Magistrate on his transfer out of this jurisdiction.

Sd/-
Chief Secretary.

ANIMAL HUSBANDRY DEPARTMENT CORRIGENDUM

Shimla-171 002, the 6th March, 2000

No. AHY. A(1)1-97-II.—In partial modification of this department notification of even number, dated 27-2-1999, the Governor, Himachal Pradesh is pleased to order the opening of the Vety. Dispensary in Village Blaindhar in Gram Panchayat Chokar in District Sirmaur, Himachal Pradesh in public interest in place of Sati at Sl. No. 122.

By order,

S. S. PARMAR,
Financial Commissioner-cum-Secretary.

भाग-2—बैधानिक नियमों को छोड़कर त्रिभुज विभागों के अध्यक्षों और जिला मैजिस्ट्रेटों द्वारा अधिसूचनाएं इत्यादि

कार्यालय जिला दण्डाधिकारी, हमीरपुर, हिमाचल प्रदेश

आदेश

हमीरपुर, 4 मार्च, 2000

सं 446-65.—जैसा कि विदित ही है कि राज्य स्तरीय "होली उत्सव" दिनांक 18-3-2000 से 20-3-2000 तक सृजान-

पुर टीहरा, जिला हमीरपुर में आयोजित किया जा रहा है, जिस में हजारों की संख्या में लोग राज्य तथा अन्य राज्यों से इस उत्सव में भाग लेने/देखने आएंगे। इसलिए जनहित में आवश्यक होगा कि शराबखोरी तत्त्वों को उत्सव में हथियार/विस्फोटक सामग्री के साथ प्रवेश करने से रोका जाए ताकि उत्सव में कोई अप्रिय घटना, दंगा-फसाद या शान्ति भंग न हो।

अतः मैं, अनुराधा ठाकुर, भा 0 प्र 0, जिला दण्डाधिकारी, हमीरपुर द्वारा 144 की उप-धारा 3 कीजदारी दण्ड संहिता में

विचार किया
पद के अर्थात्परन्तु व
की प्रवृत्ति
प्रभाव है
विचार की

प्रदत्त शक्तियों का प्रयोग करते हुए आदेश देती हैं कि सुजानपुर नगर पंचायत क्षेत्र में दिनांक 15-3-2000 से 23-3-2000 तक कोई भी व्यक्ति हथियार, विस्फोटक पदार्थ, लाठी आदि लेकर चलने पर पाबन्दी लगाई जाती है। यह आदेश पुलिस कर्मी/गृह रक्षक/पैरा मिलिट्री बल आदि जो उत्सव में ड्यूटी पर तैनात सरकारी कर्मचारियों/अधिकारियों पर लागू नहीं होंगे।

अनुराधा ठाकुर,
जिला दण्डाधिकारी,
हमीरपुर, हिमाचल प्रदेश।

कार्यालय सहायक पंजीयक, सहकारी सभाएं, धर्मशाला, जिला कांगड़ा, हिमाचल प्रदेश

कार्यालय आदेश

धर्मशाला, 9 मार्च, 2000

संख्या 2-232/89-कूप (विघटन)/986-92.—चूंकि निरीक्षक, सहकारी सभाएं, रैत ने अपने निरीक्षण पत्र/पत्र संख्या शून्य, दिनांक 19-1-2000 में अनुरोध किया है कि दो नौशहरा महिला सहकारी ग्रिफ्ट एवं सेविंग सोसाइटी लि०, नौशहरा, डाकघर रैत, तहसील शाहपुर, जिला कांगड़ा का कारोबार काफी समय से बन्द पड़ा है। इसका चुनाव भी 4-10-75 के बाद नहीं हुआ है। निरीक्षक ने सभा को समाप्त करने के उद्देश्य से इसे विघटन में डालने की संस्तुति की है।

अतः मैं, अश्वनी कुमार, सहायक पंजीयक, सहकारी सभाएं, धर्मशाला, पंजीयक सहकारी सभाएं, हिमाचल प्रदेश की प्रदत्त शक्तियों का प्रयोग करते हुए, हिमाचल प्रदेश अधिनियम, 1968 (अधिनियम नं० 3 आ० 1969) की धारा 78 के अन्तर्गत दो नौशहरा महिला सहकारी ग्रिफ्ट एवं सेविंग सोसाइटी नौशहरा, डाकघर रैत, तहसील शाहपुर, जिला कांगड़ा को विघटन में डालने

के आदेश देता हूँ तथा हिमाचल प्रदेश सहकारी सभाएं अधिनियम, 1968 की धारा 79 के अन्तर्गत प्रदत्त शक्तियों का प्रयोग करते हुए, निरीक्षक उपयुक्त रैत को विघटक नियुक्त करता हूँ तथा उन्हें आदेश देता हूँ कि विघटन कार्यवाही का निपटारा करते हुए, अन्तिम प्रतिवेदन इस कार्यालय को एक मास के भीतर-भीतर प्रेषित करें।

धर्मशाला, 9 मार्च, 2000

संख्या 2-232/89-कूप (विघटन)/979-85.—चूंकि निरीक्षक सहकारी सभाएं, कांगड़ा ने अपने निरीक्षण पत्र संख्या 877, दिनांक 17-2-2000 में निष्पत्ति की है कि दो बगली वूमन ग्रिफ्ट एवं क्रेडिट सहकारी सभा लि०, बगली, डाकघर बगली, तहसील व जिला कांगड़ा का कारोबार बिल्कुल बन्द पड़ा है तथा सदस्य संख्या भी शून्य हो चुकी है। निरीक्षक ने इस सभा को समाप्त करने के उद्देश्य से इसे विघटन में डालने की संस्तुति की है।

अतः मैं, अश्वनी कुमार, सहायक पंजीयक, सहकारी सभाएं, धर्मशाला पंजीयक सहकारी सभाएं, हिमाचल प्रदेश की प्रदत्त शक्तियों का प्रयोग करते हुए, हिमाचल प्रदेश सहकारी सभाएं अधिनियम, 1968 (अधिनियम संख्या 3 आ० 1969) की धारा 78 के अन्तर्गत दो बगली वूमन ग्रिफ्ट एवं क्रेडिट सहकारी सभा लि०, बगली को विघटन में डालने के आदेश देता हूँ तथा हिमाचल प्रदेश सहकारी सभाएं अधिनियम, 1968 (अधिनियम संख्या 3 आ० 1969) की धारा 79 के अन्तर्गत प्रदत्त शक्तियों का प्रयोग करते हुए, निरीक्षक सहकारी सभाएं उपयुक्त बगली को विघटक नियुक्त करता हूँ तथा उन्हें आदेश देता हूँ कि वह सभा को विघटन कार्यवाही करते हुए अन्तिम प्रतिवेदन इस कार्यालय को एक मास के भीतर-भीतर प्रेषित करें।

हस्ताक्षरित/-
सहायक पंजीयक,
सहकारी सभाएं, धर्मशाला,
हिमाचल प्रदेश।

भाग-3—अधिनियम, विधेयक और विधेयकों पर प्रवर समिति के प्रतिवेदन, वैधानिक नियम तथा हिमाचल प्रदेश के राज्यपाल, हिमाचल प्रदेश हाई कोर्ट, फाईनेंशियल कमिशनर तथा कमिशनर आफ इन्कम टैक्स द्वारा अधिसूचित आदेश इत्यादि
कामिक (नियुक्ति-4) विभाग
उपाध्यक्ष "क"

अधिसूचना

जिसमा-171002, 8 मार्च, 2000

संख्या कामिक (नियुक्ति-4)-ए (3)-2/99.—हिमाचल प्रदेश के राज्यपाल, भारत के संविधान के अनुच्छेद 309 के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, हिमाचल प्रदेश लोक सेवा आयोग के परामर्श से, कामिक विभाग (सचिवालय प्रशासन) में उप-सचिव, हिमाचल प्रदेश सचिवालय सेवाएं, वर्ग-1 (राजपत्रित) पद के लिए इस अधिसूचना से संलग्न उपाध्यक्ष "क" के अनुसार भर्ती एवं प्रोन्नति नियम बनाते हैं, अर्थात्:—

1. संक्षिप्त नाम और प्रारम्भ.—(1) इन नियमों का संक्षिप्त नाम हिमाचल प्रदेश सचिवालय सेवाएं (उप-सचिव), वर्ग-1 (राजपत्रित) भर्ती एवं प्रोन्नति नियम, 2000 है।

(2) ये नियम राजपत्र, हिमाचल प्रदेश में प्रकाशित किये जाने की तारीख से प्रवृत्त होंगे।

2. निरसन और व्यावृत्तियां.—(1) इस विभाग की अधिसूचना संख्या 2-24/71-नियुक्ति, तारीख 5 जुलाई, 1973 द्वारा अधिसूचित, "दो हिमाचल प्रदेश ब्लास-1 (डिप्टी सेक्रेटरीज) (नान एच० ए० एस०) रैक्यूटमेंट एण्ड प्रोमोशन रूलज, 1973" का एतद्वारा निरसन किया जाता है।

(2) परन्तु ऐसे निरसन के होते हुए भी उपर्युक्त उप-नियम (1) के अधीन इस प्रकार निरसित नियमों के अधीन की गई कोई नियुक्ति, बात या कार्यवाई इन नियमों के अधीन विधिमान्य रूप में की गई समझी जाएगी।

आदेश द्वारा,
ए०के० गोस्वामी,
मुख्य सचिव।

कामिक विभाग, हिमाचल प्रदेश सरकार में उप-सचिव, हिमाचल प्रदेश सचिवालय सेवाएं (राजपत्रित), वर्ग-1 के पद के भर्ती एवं प्रोन्नति नियम

- | | |
|---|--|
| 1. पद का नाम | उप-सचिव |
| 2. पदों की संख्या | 6 (छः) |
| 3. वर्गीकरण | वर्ग-1 (राजपत्रित)
लिपिक वर्गीय सेवाएं। |
| 4. वेतनमान | रुपये 12000-375-13500-
400-15000. |
| 5. चयन पद अथवा अचयन पद | चयन |
| 6. सीधी भर्ती किये जाने वाले व्यक्तियों के लिये आयु। | लागू नहीं |
| 7. सीधी भर्ती किए जाने वाले व्यक्तियों के लिए अपेक्षित न्यूनतम शैक्षणिक और अन्य अर्हताएं। | लागू नहीं |
| 8. सीधी भर्ती किए जाने वाले व्यक्तियों के लिए विहित आयु और शैक्षणिक अर्हताएं प्रोन्नति की दशा में लागू होंगी या नहीं? | लागू नहीं |
| 9. परीक्षा की अवधि, यदि कोई हो। | दो वर्ष, जिसका एक वर्ष से अधिक ऐसी और अवधि |

के लिये विस्तार किया जा सकेगा जैसा कि सक्षम प्राधिकारी विशेष परिस्थितियों में और लिखित कारणों से प्रादेश दें।

अपेक्षाओं के कारण प्रोन्नति किए जाने सम्बन्धी विचार के लिए अपात्र हो जाता है वहां उससे कनिष्ठ व्यक्ति भी ऐसी प्रोन्नति के विचार के लिये अपात्र समझा जाएगा।

10. भर्ती की पद्धति—भर्ती सीधी होगी या प्रोन्नति या प्रतिनियुक्ति या स्थानान्तरण द्वारा और विभिन्न पद्धतियों द्वारा भरी जाने वाली रिक्तियों की प्रतिशतता।

शत-प्रतिशत प्रोन्नति द्वारा

11. प्रोन्नति/प्रतिनियुक्ति या स्थानान्तरण की दशा में श्रेणियां जिनसे प्रोन्नति, प्रतिनियुक्ति या स्थानान्तरण किया जाएगा।

अवर सचिवों में से, जिनका तीन वर्ष का निश्चित सेवाकाल या ग्रेड में (31-3-98) तक लगातार की गई तदर्थ सेवा, यदि कोई हो, सहित उक्त संयुक्त निश्चित सेवाकाल हो, प्रोन्नति द्वारा ऐसा न होने पर अवर सचिवों में से प्रोन्नति द्वारा जिनका अवर सचिव और अनुभाग अधिकारी की सेवा को शामिल करके चार वर्ष का संयुक्त निश्चित सेवाकाल हो या (31-3-98) तक की गई लगातार तदर्थ सेवा सहित संयुक्त निश्चित सेवाकाल हो, जिसके अन्तर्गत अवर सचिव के रूप में 2 वर्षों का प्रातिवर्षीय सेवाकाल भी सम्मिलित होगा।

(1) प्रोन्नति के सभी मामलों में पद पर नियमित नियुक्ति से पूर्व सम्भरण पद में 31-3-98 तक की गई निरन्तर तदर्थ सेवा, यदि कोई हो, प्रोन्नति के लिये इन नियमों में यथा विहित सेवाकाल के लिए इस शर्त के अधीन रहते हुए गणना में ली जाएगी, कि सम्भरण प्रवर्ग में तदर्थ नियुक्ति/प्रोन्नति भर्ती एवं प्रोन्नति नियमों के उपबन्धों के अनुसार चयन की उचित स्वीकृत प्रक्रिया को अपमान के पश्चात् की गई थी परन्तु यह कि उन सभी मामलों में जिनमें कोई कनिष्ठ व्यक्ति सम्भरण पद में अपने कुल सेवा काल (31-3-98 तक तदर्थ आधार पर की गई तदर्थ सेवा सहित जो निश्चित सेवा/नियुक्ति के अनुसरण में हो, को शामिल करके) के आधार पर उपर्युक्त निर्दिष्ट उपबन्धों के कारण विचार किये जाने के पात्र हो जाता है, वहां अवन-अने प्रवर्ग/पद/कांडर में उससे बरिष्ठ सभी व्यक्ति विचार किये जाने के पात्र समझे जाएंगे और विचार करते समय कनिष्ठ व्यक्ति से ऊपर रखे जाएंगे:

परन्तु उन सभी पदधारियों की, जिन पर प्रोन्नति के लिए विचार किया जाता है, कम से कम तीन वर्ष न्यूनतम अर्हता सेवा या पद के भर्ती एवं पदोन्नति नियमों में विहित सेवा, जो भी कम हो, होगी।

परन्तु यह और भी कि, जहां कोई व्यक्ति पूर्वगामी परन्तुक की

स्पष्टीकरण—अन्तिम परन्तुक के अन्तर्गत कनिष्ठ पदधारी प्रोन्नति के लिए अपात्र नहीं समझा जायेगा, यदि बरिष्ठ अपात्र व्यक्ति भूतपूर्व सैनिक है, जिसे डिमोबिलाइज्ड आर्मंड फोर्स परसोनल (रिजर्वेशन आफ वैकेन्सीज इन हिमाचल स्टेट नान टैक्नीकल सर्विसिज) रूलज 1972 के नियम 3 के प्रावधानों के अन्तर्गत भर्ती किया गया हो या जिसे एक्स सर्विसमैन (रिजर्वेशन आफ वैकेन्सीज इन दो हिमाचल प्रदेश टैक्नीकल सर्विसिज) रूलज, 1985 के नियम 3 के प्रावधानों के अन्तर्गत भर्ती किया गया हो व इनके अन्तर्गत वरियता लाभ दिये गये हों।

(2) इसी प्रकार स्थाईकरण के सभी मामलों में ऐसे पद पर नियुक्ति/प्रोन्नति से पूर्व 31-3-98 तक की गई तदर्थ सेवा, यदि कोई हो, सेवाकाल के लिए गणना में ली जायेगी, यदि तदर्थ नियुक्ति/प्रोन्नति उचित चयन के पश्चात् और भर्ती एवं प्रोन्नति नियमों के उपबन्धों के अनुसार की गई थी:

परन्तु 31-3-98 तक की गई उपर्युक्त निर्दिष्ट तदर्थ सेवा को गणना में लेने के पश्चात् जो स्थायीकरण होगा उसके फलस्वरूप पारस्परिक वरियता अपरिवर्तित रहेगी।

12. यदि विभागीय प्रोन्नति समिति विद्यमान हो, तो उसकी संरचना।

जैसी सरकार द्वारा समय-समय पर गठित की जाए।

13. भर्ती करने में जितने परिस्थितियों में हिमाचल प्रदेश लोक सेवा आयोग से परामर्श किया जाएगा।

जैसा कि बिबि द्वारा अपेक्षित हो।

14. सीधी भर्ती किए जाने वाले व्यक्तियों के लिए अपेक्षा।

लागू नहीं

15. सीधी भर्ती द्वारा पद पर नियुक्ति के लिये चयन।

लागू नहीं

16. आरक्षण

उक्त सेवा में नियुक्ति, हिमाचल प्रदेश सरकार द्वारा समय-समय पर अनुसूचित जातियों/अनुसूचित जनजातियों/छिछे वर्गों और अन्य प्रवर्ग के व्यक्तियों के लिए सेवाओं में आरक्षण को वाजबत जारी किए गए अनुदेशों के अधीन होगी।

17. विभागीय परीक्षा

सेवा में प्रत्येक सदस्य के विभागीय परीक्षा नियम, 1997 में यथा विहित और समय-समय पर संशोधित विभागीय परीक्षा पास करनी होगी।

18. शिथिल करने की शक्ति

जहां राज्य सरकार की यह राय हो कि ऐसा करना आवश्यक या समीचीन है, वहां वह कारणों को अभिलिखित करके और हिमाचल प्रदेश लोक सेवा आयोग के परामर्श से, आदेश द्वारा इन नियमों के किन्हीं उपबन्धों के किसी वग या व्यक्तियों के प्रवास या पदों की बाबत शिथिल के वक्तों।

[Authoritative English text of this department Notification No. Per. (A-IV)-A(3)-2/99, dated 8th March, 2000, as required under clause (3) of Article 348 of the Constitution of India].

PERSONNEL (A-IV) DEPARTMENT
NOTIFICATION

Shimla-2, the 8th March, 2000

No. Per. (A-IV)-A(3)-2/99.—In exercise of the powers conferred by proviso to Article 309 of the Constitution of India, the Governor, Himachal Pradesh in consultation with the Himachal Pradesh Public Service Commission is pleased to make the Recruitment and Promotion Rules for the post of Deputy Secretary, Himachal Pradesh Secretariat Services (Class-I, Gazetted) in the Department of Personnel (Secretariat Administration) as per Annexure 'A' appended to the Notification namely:—

1. *Short title and commencement.*—(1) These rules may be called the Himachal Pradesh Secretariat Services (Deputy Secretary) (Class-I) (Gazetted) Recruitment and Promotion Rules, 2000.

(2) These rules shall come into force from the date of publication in the Rajpatra, Himachal Pradesh.

2. *Repeal and savings.*—(1) The Himachal Pradesh Class-I Deputy Secretaries (Non-HPAS) Recruitment and Promotion Rules, 1973 notified vide this Department Notification No. 2-24/71-Appnt. dated 5th July, 1973 are hereby repealed.

(2) Notwithstanding such repeal any appointment made or any action taken or anything done under the rules so repealed under sub-rule (1) *supra* shall be deemed to have been validly made or taken or done under these rules.

By order,
A. K. GOSWAMI,
Chief Secretary.

ANNEXURE "A"
RECRUITMENT AND PROMOTION RULES FOR
THE POST OF DEPUTY SECRETARY (HPSS)
CLASS-I (GAZETTED) IN THE DEPARTMENT
OF PERSONNEL, GOVERNMENT OF
HIMACHAL PRADESH

- | | |
|---|---|
| 1. Name of the post | Deputy Secretary |
| 2. Number of posts | 6 (Six) |
| 3. Classification | Class-I (Gazetted)
Ministerial Services. |
| 4. Scale of pay | Rs. 12000-375 13500-400-15500. |
| 5. Whether selection post or non-selection post. | Selection |
| 6. Age for direct recruitment. | Not applicable |
| 7. Minimum educational and other qualifications required for direct recruits. | Not applicable |
| 8. Whether age and educational qualifications prescribed for direct recruits will apply in the case of the promotees. | Not applicable |
| 9. Period of probation, if any. | Two years subject to such further extension for a period not exceeding one year or as may be ordered by the competent authority in special cir- |

10. Method of recruitment, whether by direct recruitment or by promotion, deputation, transfer and the percentage of vacancies to be filled in by various methods.

11. In case of recruitment by promotion, deputation, transfer, grade from which promotion/deputation/transfer is to be made.

circumstances and reasons to be recorded in writing. 100% by promotion.

By promotion from amongst the Under Secretaries possessing 3 years regular service or regular combined with continuous *ad hoc* (rendered upto 31-3-98) service if any, in the grade failing which by promotion from amongst the Under Secretaries possessing 4 years combined regular service or regular combined with continuous *ad hoc* (rendered upto 31-3-98) service combined as Under Secretary and Section Officer which shall also include essential service of 2 years as Under Secretary.

(1) In all cases of promotion the continuous *ad hoc* service rendered in the feeder post upto 31-3-98, if any, prior to regular appointment to the post shall be taken into account towards the length of service as prescribed in these rules for promotion subject to the condition that the *ad hoc* appointment/promotion in the feeder category had been made after following proper acceptable process of selection in accordance with the provisions of R & P Rules, provided that:

(i) that in all cases where a junior person becomes eligible for consideration by virtue of his total length of service (including the service rendered on *ad hoc* basis upto 31-3-1998 followed by regular service/appointment) in the feeder post in view of the provision referred to above, all persons senior to him in the respective category/post/cadre shall be deemed to be eligible for consideration and placed above the junior person in the field of consideration:

Provided that all incumbents to be considered for promotion shall possess the minimum qualifying service of at least 3 years or that prescribed in the Recruitment and Promotion Rules for the post, whichever is less:

Provided further that where a person becomes ineligible to be considered for promotion on account of the requirements of the preceding proviso, the person(s)

junior to him shall also be deemed to be ineligible for consideration for such promotion.

Explanation.—The last proviso shall not rendered the junior incumbents ineligible for consideration for promotion if the senior ineligible persons happened to be Ex-servicemen recruited under the provisions of Rule 3 of Demobilised Armed Forces Personnel (Reservation of Vacancies in Himachal State Non-Technical Services) Rules, 1972 and having been given the benefit of seniority thereunder.

(2) Similarly, in all cases of confirmation, continuous *ad hoc* service rendered in the feeder post upto 31-3-1998, if any, prior to the regular appointment against such post shall be taken into account towards the length of service, if the *ad hoc* appointment/promotion had been made after proper selection and in accordance with the provisions of the R & P Rules:

Provided that *inter se* seniority as a result of confirmation after taking into account *ad hoc* service rendered upto 31-3-1998, as referred to above shall remain unchanged.

- | | |
|--|--|
| 12. If a Departmental Promotion Committee exists, what is its composition. | As may be constituted by the Govt. from time to time. |
| 13. Circumstances under which the H.P.P.S.C. is to be consulted in making recruitment. | As required under the law |
| 14. Essential requirement for a direct recruitment. | Not applicable |
| 15. Selection for appointment to post by direct recruitment. | Not applicable |
| 16. Reservation | The appointment to the service shall be subject to orders regarding reservation in the service for Scheduled Castes/Scheduled Tribes/Backward Classes/Other Categories of persons issued by the Himachal Pradesh Government from time to time. |

17. Departmental Examination.

Every member of the service shall pass the Departmental Examination as prescribed in Himachal Pradesh Departmental Examination Rules, 1997 as amended from time to time.

18. Power to relax

Where the State Government is of the opinion that it is necessary or expedient to do so, it may, by order for reasons to be recorded in writing and in consultation with the H. P. Public Service Commission relax with respect to any class or category of persons or posts.

श्रम एवं रोजगार विभाग

अधिसूचना

शिमला-2, 7 फरवरी, 2000

संख्या श्रम (बी) 2-19/97.—हिमाचल प्रदेश के राज्यपाल, भारत के संविधान के अनुच्छेद 309 के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, हिमाचल प्रदेश लोक सेवा आयोग के परामर्श से समसंख्यक अधिसूचना, तारीख 9-9-98 द्वारा अधिसूचित हिमाचल प्रदेश श्रम एवं रोजगार विभाग में निजी सहायक वर्ग-III (अराजपत्रित) (लिपिकीय सेवाएं) के पद के भर्ती एवं प्रोन्नति नियमों में संशोधन करने के लिए निम्नलिखित नियम बनाते हैं, अर्थात् :—

1. संक्षिप्त नाम और प्रारम्भ.—(1) इन नियमों का संक्षिप्त नाम हिमाचल प्रदेश श्रम एवं रोजगार विभाग निजी सहायक, वर्ग-III, (अराजपत्रित) लिपिकीय सेवाएं भर्ती एवं प्रोन्नति (प्रथम संशोधन) नियम, 1999 है।

(2) ये नियम राजपत्र, हिमाचल प्रदेश में प्रकाशित किए जाने की तारीख से प्रवृत्त होंगे।

2. उपावय का संशोधन.—हिमाचल प्रदेश श्रम एवं रोजगार विभाग, निजी सहायक, वर्ग-III (अराजपत्रित) (लिपिकीय सेवाएं) भर्ती एवं प्रोन्नति नियम, 1997 में :—

(क) स्तम्भ संख्या 10 के सामने विद्यमान उपावयों के स्थान पर निम्नलिखित प्रतिस्थापित किया जाएगा, अर्थात् :—

शत प्रतिशत प्रोन्नति द्वारा/प्रतिनियुक्ति/स्थानान्तरण द्वारा।

(ग) स्तम्भ संख्या 11 के सामने विद्यमान उपावयों के स्थान पर निम्नलिखित प्रतिस्थापित किया जाएगा, अर्थात् :—

“वरिष्ठ आशुलिपिकों में से जिनका 6 वर्ष का नियमित सेवाकाल या ग्रेड में (31-3-98) तक की गई लगातार तदर्थ सेवा उक्त नियमित सेवाकाल हो, प्रोन्नति द्वारा। ऐसा न होने पर हिमाचल प्रदेश सरकार के अन्य विभागों में समतुल्य वेतनमान में कार्यरत इस पद के पदधारियों में से प्रतिनियुक्ति/स्थानान्तरण द्वारा।

(1) प्रोन्नति के सभी मामलों में पद पर नियमित नियुक्ति से पूर्व सम्भरण पद में 31-3-1998 तक की गई निरन्तर तदर्थ सेवा, यदि कोई हो, प्रोन्नति के लिये इन नियमों में यथाविहित सेवाकाल के लिये, इस शर्त के अधीन रहते हुये गणना में ली जाएगी, कि सम्भरण प्रवर्ग में तदर्थ नियुक्ति/प्रोन्नति, भर्ती और प्रोन्नति नियमों के उपबन्धों के अनुसार चयन की उचित स्वीकार्य प्रक्रिया को अपनाने के पश्चात् की गई थी। परन्तु यह कि उन सभी मामलों में जिनमें कोई कनिष्ठ व्यक्ति सम्भरण पद में अपने कुल सेवाकाल (31-3-1998 तक तदर्थ आधार पर की गई तदर्थ सेवा सहित जो नियमित सेवा/नियुक्ति के अनुसरण में हो, को शामिल करके) के आधार पर उपयुक्त निदिष्ट उपबन्धों के कारण विचार किए जाने का पाव हो जाता है, वहां अपने-अपने प्रवर्ग/पद/कांडर में उससे वरिष्ठ सभी व्यक्ति विचार किए जाने के पाव समझे जायेंगे और विचार करते समय कनिष्ठ व्यक्ति से ऊपर रख जायेंगे :

परन्तु उन सभी पदधारियों की, जिन पर प्रोन्नति के लिये विचार किया जाना है, की कम से कम तीन वर्ष की न्यूनतम अर्हता सेवा या पद के भर्ती एवं प्रोन्नति नियमों में विहित सेवा जो भी कम हो, होगी :

परन्तु यह और भी कि, जहां कोई व्यक्ति पूर्वागामी परन्तुक की अपेक्षाओं के कारण प्रोन्नति किए जाने सम्बन्धित विचार के लिए अपात्र हो जाता है, वहां उससे कनिष्ठ व्यक्ति भी ऐसी प्रोन्नति के विचार के लिए अपात्र समझा जाएगा।

स्पष्टीकरण.—अन्तिम परन्तुक के अन्तर्गत कनिष्ठ पदधारी प्रोन्नति के लिए अपात्र नहीं समझा जाएगा। यदि वरिष्ठ अपात्र व्यक्ति भूतपूर्व सैनिक है जिसे डिप्लोमा/आईजड आर्मेड फोरसिज परसोनल (रिजर्वेशन आफ वकैन्सीज इन हिमाचल स्टेट नान-टैक्नीकल सर्विसिज) रूलज, 1972 के नियम 3 के प्रावधानों के अन्तर्गत भर्ती किया गया हो या जिसे ऐक्स सर्विसमें (रिजर्वेशन आफ वकैन्सीज इन दो हिमाचल प्रदेश टैक्नीकल सर्विसिज) रूलज, 1985 के नियम 3 के प्रावधानों के अन्तर्गत भर्ती किया गया हो व इसके अन्तर्गत वरीयता लाभ दिए गए हों।

(2) इसी प्रकार स्पष्टीकरण के सभी मामलों में ऐसे पद पर नियमित नियुक्ति/प्रोन्नति से पूर्व 31-3-1998 तक की गई तदर्थ सेवा यदि कोई हो, सेवाकाल के लिए गणना में ली जायेगी, यदि तदर्थ नियुक्ति/प्रोन्नति, भर्ती एवं प्रोन्नति नियमों के उपबन्धों के अनुसार चयन की उचित स्वीकार्य प्रक्रिया को अपनाने के पश्चात् की गई थी :

विचार कि
पद के भर्ती
परन्तु
की अपेक्षा
अपान के
विचार।

“है

परन्तु 31-3-98 तक की गई उपर्युक्त निश्चित तदर्थ सेवा की गणना में लेने के पश्चात् जो स्थायीकरण होगा, उसके फलस्वरूप पारस्परिक बरीयता शरार्विहित रहेगी।

आदेश द्वारा,

हर्ष गुप्ता
अतिरिक्त मुख्य सचिव एवं सचिव।

[Authoritative English text of this department notification No. Sharm (B) 2-19/97, dated 7-2-2000 as required under clause (3) of Article 348 of the Constitution of India].

LABOUR AND EMPLOYMENT DEPARTMENT NOTIFICATION

Shimla-171 002, the 7th February, 2000

No. Sharm (B) 2-19/97.—In exercise of the powers conferred by proviso to Article 309 of the Constitution of India, the Governor, Himachal Pradesh in consultation with the Himachal Pradesh Public Service Commission is pleased to make the following Rules to amend the Himachal Pradesh Labour and Employment Department, Personnel Assistant (Class-III Non-Gazetted) Ministerial Services Recruitment and Promotion Rules, 1998 notified vide this department notification of even number dated 9-9-1998, namely:—

1. *Short title and commencement.*—(i) These rules may be called the Himachal Pradesh Labour and Employment Department, Personal Assistant Class-III (Non-Gazetted) Ministerial Services Recruitment and Promotion (First Amendment) Rules, 1999.

(ii) These rules shall come into force from the date of publication in the Rajpatra, Himachal Pradesh.

2. *Amendment of Annexure 'A'.*—In Annexure 'A' to the Himachal Pradesh Labour and Employment Department, Personal Assistant (Class-III Non-Gazetted) Ministerial Services Recruitment and Promotion Rules, 1998:—

(a) For existing provisions against Column No. 10, the following shall be substituted namely:—
“100% by Promotion failing which by deputation/transfer.

(b) For the existing provisions against col. No. 11, the following shall be substituted, namely:—

“By promotion from amongst the Senior Scale Stenographers with 6 years regular service or regular combined with continuous *ad hoc* (rendered upto 31-3-98) service in the grade failing which by deputation/transfer from amongst the incumbents of this post working in the identical pay scales from other H. P. Govt. Departments”.

(1) In all cases of promotion, the continuous *ad hoc* service rendered in the feeder post upto 31-3-1998, if any, prior to regular appointment to the post shall be taken into account towards the length of service as prescribed in these rules for promotion subject to the condition that the *ad hoc* appointment/promotion in the feeder category had been made after following proper acceptable process of selection in accordance with the provisions of R & P Rules, provided that:

(i) in all cases where a junior person becomes eligible for consideration by virtue of his total length of service (including the service rendered on *ad hoc* basis upto 31-3-1998 followed by regular service/appointment) in the feeder post in view of the provisions referred to above, all persons senior to him in the respective category/post/cadre shall be deemed to be eligible for consideration and placed above the junior person in the field of consideration:

Provided that all incumbents to be considered for promotion shall possess the minimum qualifying service of at least three years or that prescribed in the Recruitment and Promotion Rules for the post, whichever is less:

Provided further that where a person becomes ineligible to be considered for promotion on account of the requirements of the proceeding proviso, the person(s) junior to him shall also be deemed to be ineligible for consideration for such promotion.

Explanation.—The last proviso shall not render the junior incumbents ineligible for consideration for promotion if the senior ineligible persons happened to be Ex-servicemen recruited under the provisions of Rule 3 of Demobilised Armed Forces Personnel (Reservation of Vacancies in Himachal State Non-Technical Services) Rules, 1972 and having been given the benefit of seniority thereunder or recruited under the provisions of Rule 3 of Ex-Servicemen (Reservation of vacancies in the Himachal Pradesh Technical Services) Rules, 1985 and having been given the benefit of seniority thereunder.

(2) Similarly, in all cases of confirmation continuous *ad hoc* service rendered on the feeder post upto 31-3-1998, if any, prior to the regular appointment against such post shall be taken into account towards the length of service, if the *ad hoc* appointment/promotion had been made after proper selection and in accordance with the provisions of the R & P Rules:

Provided that *inter-se* seniority as a result of confirmation after taking into account, *ad hoc* service rendered upto 31-3-1998 as referred to above shall remain unchanged.

By order,

HARSH GUPTA,
A.C.S.-cum-Secretary.

श्रम एवं रोजगार विभाग

अधिसूचना

शिमला-171 002, 7 फरवरी, 2000

संख्या 2 (बी) 2-1/93-श्रम.—हिमाचल प्रदेश के राज्यपाल, भारत के संविधान के अनुच्छेद 309 के अन्तर्गत द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, हिमाचल प्रदेश लोक सेवा आयोग के परामर्श से, इस विभाग की समसंख्यक अधिसूचना तारीख 16-5-1998 द्वारा अधिसूचित हिमाचल प्रदेश श्रम एवं रोजगार विभाग में वरिष्ठ सहायक, वर्ग-III (अराजपत्रित) पद के भर्ती एवं प्रोन्नति नियमों में संशोधन करने के लिए निम्नलिखित नियम बनाते हैं, अर्थात्:—

1 संक्षिप्त नाम और प्रारम्भ.—(i) इन नियमों का संक्षिप्त नाम हिमाचल प्रदेश श्रम एवं रोजगार विभाग वरिष्ठ सहायक, वर्ग-III (अराजपत्रित) भर्ती एवं प्रोन्नति (प्रथम संशोधन) नियम, 1999 है।

(2) ये नियम राजपत्र, हिमाचल प्रदेश में प्रकाशित किये जाने की तारीख से प्रवृत्त होंगे।

(ii) उपबन्ध “क” का संशोधन.—हिमाचल प्रदेश श्रम एवं रोजगार विभाग में वरिष्ठ सहायक, वर्ग-III (अराजपत्रित) पद के भर्ती एवं प्रोन्नति नियम, 1997 के उपबन्ध “क” में:—

(क) स्तम्भ संख्या 4 के सामने विद्यमान उपबन्धों के स्थान पर निम्नलिखित प्रतिस्थापित किए जाएंगे, अर्थात्:—
“रूपये 5800-200-7000-220-8100-275-9200”।

(ख) स्तम्भ संख्या 11 के सामने विद्यमान उपबन्धों के स्थान पर निम्नलिखित प्रतिस्थापित किए जाएंगे, अर्थात्:—
कनिष्ठ सहायकों में से, जिनका ग्रेड में 5 वर्ष का नियमित सेवाकाल या 31-3-98 तक की गई तदर्थ सेवा को सम्मिलित करके संयुक्त नियमित सेवाकाल हो, प्रोन्नति द्वारा।

(1) प्रोन्नति के सभी मामलों में पद पर नियमित नियुक्ति से पूर्व सम्भरण पद में 31-3-98 तक की गई निरन्तर तदर्थ सेवा; यदि कोई हो, प्रोन्नति के लिए इन नियमों में प्रावधानित सेवाकाल के लिए इस शर्त के अधीन रहते हुए, गणना में ली जाएगी, कि सम्भरण प्रवर्ग में तदर्थ नियुक्ति/प्रोन्नति भर्ती एवं प्रोन्नति नियमों के उपबन्धों के अनुसार चयन की उचित स्थिति प्राप्ति की अपेक्षा को पश्चात् की गई थी :

परन्तु यह कि उन सभी मामलों में जिनमें कोई कनिष्ठ व्यक्ति सम्भरण पद में अपने कुल सेवाकाल (31-3-1998 तक तदर्थ आधार पर की गई तदर्थ सेवा सहित जो नियमित सेवा/नियुक्ति के अनुसरण में हो, को शामिल करके) के आधार पर उपर्युक्त निर्दिष्ट उपबन्धों के कारण विचार किए जाने का पात्र हो जाता है वहां अपने-अपने प्रवर्ग/पद/कांडर में उससे वरिष्ठ सभी व्यक्ति विचार किए जाने के पात्र समझे जाएंगे और विचार करते समय कनिष्ठ व्यक्ति से ऊपर रखे जाएंगे :

परन्तु उन सभी पदधारियों की, जिन पर प्रोन्नति के लिये विचार किया जाता है, की कम से कम तीन वर्ष की न्यूनतम अर्हता सेवा या पद के भर्ती एवं प्रोन्नति नियमों में विहित सेवा जो भी कम हो, होगी :

परन्तु यह और भी कि जहां कोई व्यक्ति पूर्वागामी परन्तु की अपेक्षाओं के कारण प्रोन्नति किए जाने के विचार के लिए अपात्र हो जाता है, वहां उससे कनिष्ठ व्यक्ति भी ऐसी प्रोन्नति के विचार के लिये अपात्र समझा जायेगा ।

स्वाधिकारण.—प्रतिम परन्तु के अन्तर्गत कनिष्ठ पदधारी प्रोन्नति के लिए अपात्र नहीं समझा जाएगा, यदि वरिष्ठ अपात्र व्यक्ति मृतपर्व सैनिक जिसे डिमोबिलाइज्ड आर्मेड फोर्सिज परखोनन (रिजर्वेशन आफ बेकैन्सोज इन हिमाचल स्टेट नान-टेक्निकल सर्विसेज) कानून, 1972 के नियम 3 के प्रावधानों के अन्तर्गत भर्ती किया गया हो या जिसे ऐक्स सर्विसमैन (रिजर्वेशन आफ बेकैन्सोज इन दी हिमाचल प्रदेश टेक्निकल सर्विसेज) कानून, 1985 के नियम 3 के प्रावधानों के अन्तर्गत भर्ती किया गया हो व इसके अन्तर्गत वसोयत लाभ दिए गए हो ।

(2) इसी प्रकार स्वाधिकारण के सभी मामलों में ऐसे पद पर नियमित नियुक्ति/प्रोन्नति से पूर्व 31-3-1998 तक की गई तदर्थ सेवा यदि कोई हो, सेवाकाल के लिए गणना में ली जाएगी, यदि तदर्थ नियुक्ति/प्रोन्नति उचित चयन के पश्चात् और भर्ती एवं प्रोन्नति नियमों के उपबन्धों के अनुसार की गई थी :

परन्तु 31-3-1998 तक की गई उपर्युक्त निर्दिष्ट तदर्थ सेवा को गणना में लेने के पश्चात् जो स्वाधिकारण होगा उसके फलस्वरूप आधिकारिक वसोयत आधिकारित रहेंगी ।

आदेश द्वारा,

हर्ष गुप्ता,
अतिरिक्त मुख्य सचिव एवं सचिव ।

[Authoritative English text of this Department Notification No. 2 (B) 2-1/93-Shram, dated 7-2-2000 as required under clause (3) of Article 348 of the Constitution of India].

LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

Shimla-171 032, the 7th February, 2000

No. 2 (B) 2-1/93-Shram.—In exercise of the powers conferred by proviso to Article 309 of the Constitution of India, the Governor, Himachal Pradesh in consultation with the Himachal Pradesh Public Service Commission is pleased to make the following rules to amend the Himachal Pradesh Labour & Employment Department, Senior Assistant Class-III, (Non-Gazetted)

Recruitment and Promotion Rules, 1997, notified vide this Department notification of even number dated 16-5-1998, namely:—

1. *Short title and commencement.*—(i) These rules may be called the Himachal Pradesh Labour and Employment Department, Senior Assistant Class-III (Non-Gazetted) Recruitment and Promotion (First Amendment) Rules, 1999.

(ii) These rules shall come into force from the date of publication in the Rajpatra, Himachal Pradesh.

2. *Amendment of Annexure-“A”.*—In Annexure ‘A’ to the Himachal Pradesh Labour and Employment Department, Senior Assistant, Class-III (Non-Gazetted) Recruitment and Promotion Rules, 1997:—

(a) For the existing provisions against col. No. 4, the following shall be substituted, namely:—

“Rs. 5800-200-7030-220-8100-275-9200”.

(b) For the existing provisions against Col. No. 11, the following shall be substituted, namely:—

“By promotion from amongst the Junior Assistants with 5 years regular service or regular combined with continuous *ad hoc* (rendered upto 31-3-1998) service, in the grade.

(1) In all cases of promotion, the continuous *ad hoc* service rendered in the feeder post upto 31-3-1998, if any, prior to regular appointment to the post shall be taken into account towards the length of service as prescribed in these rules for promotion subject to the condition that the *ad hoc* appointment/promotion in the feeder category had been made after following proper acceptable process of selection in accordance with the provisions of R & P Rules, provided that :

(i) in all cases where a junior person becomes eligible for consideration by virtue of his total length of service (including the service rendered on *ad hoc* basis upto 31-3-1998, followed by regular service/appointment) in the feeder post in view of the provision referred to above, all persons senior to him in the respective category/post/cadre shall be deemed to be eligible for consideration and placed above the junior person in the field of consideration :

Provided that all incumbents to be considered for promotion shall possess the minimum qualifying service of at least three years or that prescribed in the Recruitment and Promotion Rules for the post, whichever is less :

Provided further that where a person becomes ineligible to be considered for promotion on account of the requirements of the preceding proviso, the person(s) junior to him shall also be deemed to be ineligible for consideration for such promotion.

Explanation.—The last proviso shall not render the junior incumbents ineligible for consideration for promotion if the senior ineligible persons happened to be Ex-servicemen recruited under the provisions of Rule 3 of Demobilised Armed Forces Personnel (Reservation of Vacancies in Himachal State Non-Technical Services) Rules, 1972 and having been given the benefit of seniority thereunder or recruited under the provisions of Rule 3 of Ex-servicemen (Reservation of Vacancies in the Himachal Pradesh Technical Services) Rules, 1985 and having been given the benefit of seniority thereunder.

(2) Similarly, in all cases of confirmation, continuous *ad hoc* service rendered on the feeder post upto 31-3-1998, if any, prior to the regular appointment against such post shall be taken into account towards the length of service, if the *ad hoc* appointment/promotion had been made after proper selection and in accordance with the provisions of the R & P Rules :

विचार कि
पद के भर्ती
पद
की अपेक्षा
अपात्र हो
विचार के

Provided that *inter-se* seniority as a result of confirmation after taking into account, *ad hoc* service rendered upto 31-3-1993 as referred to above shall remain unchanged.

By order;

HARSH GUPTA,
A.C.S.-cum-Secretary.

भाषा, कला एवं संस्कृति विभाग

शिमला

शिमला-171 002, 2 फरवरी, 2000

संख्या भाषा-ए (3) 10/95.—हिमाचल प्रदेश के राजमाल, भारत के संविधान के अनुच्छेद 309 के परन्तुक द्वारा प्रदत्त शक्तियाँ का प्रयोग करते हुए, हिमाचल प्रदेश लाफ सेवा आयोग के परामर्श से इस विभाग को सम्बंधित अधिसूचना तारीख 26-9-1998 द्वारा अधिसूचित हिमाचल प्रदेश भाषा, कला एवं संस्कृति विभाग, में वरिष्ठ सहायक वर्ग-3 (अराजकित) पद के भर्ती एवं प्रोन्नति नियमों में संशोधन करने के लिए निम्नलिखित नियम बनते हैं, अर्थात्:—

1. संक्षिप्त नाम और प्रारम्भ.—(1) इन नियमों का संक्षिप्त नाम हिमाचल प्रदेश भाषा, कला एवं संस्कृति विभाग में वरिष्ठ सहायक वर्ग-3 (अराजकित) भर्ती एवं प्रोन्नति (प्रथम संशोधन) नियम, 2000 है।

(2) ये नियम राजपत्र, हिमाचल प्रदेश में प्रकाशित किए जाने की तारीख से प्रवृत्त होंगे।

2. उपाध्व्य "अ" का संशोधन.—हिमाचल प्रदेश भाषा, कला एवं संस्कृति विभाग वरिष्ठ सहायक वर्ग-3 (अराजकित) भर्ती एवं प्रोन्नति नियम, 1998 के उपाध्व्य "अ" में:—

(क) स्तम्भ संख्या-4 के सामने विद्यमान प्रिण्ट के स्थान पर निम्नलिखित प्रतिस्थापित की जाएगी, अर्थात्:—

"हरये 5800-200-7000-220-8100-275-9200"

(ख) स्तम्भ संख्या 11 के सामने विद्यमान उपाध्व्यों के स्थान पर निम्नलिखित प्रतिस्थापित किया जाएगा अर्थात्:—

कनिष्ठ सहायकों में से जिनका 5 वर्ष का निश्चित सेवाकाल या ग्रेड में (31-3-1998) तक की गई लगातार तदर्थ सेवा महित उक्त संयुक्त निमित्त सेवाकाल हो, प्रोन्नति द्वारा।

टिप्पणी:—(1) प्रोन्नति के सभी मामलों में पद पर नियमित नियुक्ति से पूर्व सम्मरण पद में 31-3-1998 तक की गई निरन्तर तदर्थ सेवा, यदि कोई हो, प्रोन्नति के लिए इन नियमों में यथावहित सेवाकाल के लिए, इस शर्त के अधीन रहते हुए गणना में ली जाएगी कि सम्मरण प्रवर्ग में तदर्थ नियुक्ति/प्रोन्नति भर्ती एवं प्रोन्नति नियमों के उपाध्व्यों के अनुसार चयन को उचित स्वीकार्य प्रक्रिया को अगाने के पश्चात् की गई थी। परन्तु यह कि उन सभी मामलों में जिन में कोई कनिष्ठ व्यक्ति सम्मरण पद में अपने कुल सेवाकाल (31-3-98) तक तदर्थ आधार पर की गई तदर्थ सेवा सहित जो निमित्त सेवा/नियुक्ति के अनुसरण में हो, को शामिल करके के आधार पर उपर्युक्त निर्दिष्ट उपबन्धों के कारण विचार किए जाने का पात्र हो जाता है वहाँ अपने-प्रपने प्रवर्ग/पद/कांडर में उससे वरिष्ठ सभी व्यक्ति विचार किए जाने के पात्र समझे जाएंगे और विचार करते समय कनिष्ठ व्यक्ति से ऊपर रहे जाएंगे:

परन्तु उन सभी पदधारियों की, जिन पर प्रोन्नति के लिए विचार किया जाना है, को कम से कम तीन वर्षों की नियमित सेवा या पद के भर्ती एवं प्रोन्नति नियमों में विहित सेवा जो भी कम हो, होगी:

परन्तु यह और भी कि जहाँ कोई व्यक्ति पूर्वगामी परन्तुक की अपेक्षाओं के कारण प्रोन्नति किए जाने के विचार के लिए अपात्र हो जाता है, वहाँ उसके कनिष्ठ व्यक्ति भी ऐसी प्रोन्नति के विचार के लिए अपात्र समझा जाएगा।

स्पष्टीकरण.—अन्तिम परन्तुक के अन्तर्गत कनिष्ठ पदधारी प्रोन्नति के लिए अपात्र नहीं समझा जायेगा यदि वरिष्ठ अपात्र व्यक्ति भूतपूर्व सैनिक है जिसे डिमोबिलाइज्ड आर्माड फोरमस परमोनज (रिजर्वेशन आफ वेकेंसीज इन हिमाचल स्टेट नॉन-टैक्निकल सर्विज) क्लज, 1972 के नियम 3 के प्रावधानों के अन्तर्गत भर्ती किया गया हो या जिसे एक्स सर्विसेन (रिजर्वेशन आफ वेकेंसीज इन दी हिमाचल प्रदेश टैक्निकल सर्विज) क्लज, 1985 के नियम 3 के प्रावधानों के अन्तर्गत भर्ती किया गया हो व इसके अन्तर्गत वरीयता नाम दिए गए हों।

(2) इसी प्रकार स्थायीकरण के सभी मामलों में ऐसे पद पर नियुक्ति/प्रोन्नति से पूर्व 31-3-1998 तक की गई तदर्थ सेवा यदि कोई हो, सेवाकाल के लिए गणना में ली जाएगी यदि तदर्थ नियुक्ति/प्रोन्नति उचित चयन के पश्चात् और भर्ती एवं प्रोन्नति नियमों के उपबन्धों के अनुसार की गई थी:

परन्तु 31-3-1998 तक की गई उपर्युक्त निर्दिष्ट तदर्थ सेवा को गणना में लेने के पश्चात् जा स्पष्टीकरण होगा उसके फलस्वरूप पारस्परिक वरीयता अग्ररहित रहेंगी।

प्रादेश द्वारा,

अजय प्रसाद,
वित्तीयकृत एवं सचिव।

[Authoritative English text of this Department Notification No. Bhasha-A(3)10/95, dated 2-2-2000 as required under clause (3) of Article 348 of the Constitution of India].

LANGUAGE, ARTS AND CULTURE DEPARTMENT NOTIFICATION

Shimla-2, the 2nd February, 2000

No. Bhasha-A(3) 10/95.—In exercise of the powers conferred by proviso to Article 309 of the Constitution of India, the Governor of Himachal Pradesh in consultation with the Himachal Pradesh Public Service Commission, is pleased to make the following rules to amend the Himachal Pradesh Language, Arts and Culture Department Senior Assistant (Class-III, Non-Gazetted) Recruitment and Promotion Rules, 1998 notified vide this department notification of even No. dated 26-9-98 namely:—

1. *Short title and commencement.*—(1) These rules may be called the Himachal Pradesh Language, Arts and Culture Department Senior Assistant (Class-III Non-Gazetted) Recruitment and Promotion (First Amendment) Rules, 2000.

2. These rules shall come into force from the date of publication in the Rajputra, Himachal Pradesh.

2. *Amendment of Annexure "A".*—In Annexure 'A' to the Himachal Pradesh Language Arts and Culture Department Senior Assistant (Class-III Non-Gazetted) Recruitment and Promotion Rules, 1998.—

(a) For existing entry against Column No. 4, the following shall be substituted, namely:—

"Rs. 5800-200 7000-220-8100-275-9200".

(b) For the existing provisions against Col. No. 11, the following shall be substituted, namely:—

By promotion from amongst the Junior Assistants with 5 years regular service or: regular combined

पद के भर्ती एवं प्रोन्नति नियमों में संशोधन करने के लिए निम्नलिखित नियम बनाते हैं, अर्थात् :—

1. संक्षिप्त नाम और प्रारम्भ.—(1) इन नियमों का संक्षिप्त नाम हिमाचल प्रदेश भाषा, कला एवं संस्कृति विभाग, में विद्युत तंत्री (इलेक्ट्रीशियन), वर्ग-3 (प्रराजपन्नित), भर्ती एवं प्रोन्नति (प्रथम संशोधन) नियम, 2000 है।

2. **उपाबन्ध “अ” का संशोधन.**—हिमाचल प्रदेश भाषा, कला एवं संस्कृति विभाग, विद्युत तंत्री (इलेक्ट्रोशियन) वर्ग-3 (अराज्यपत्रित) भर्ती एवं प्रोन्नति नियम, 1991 के उपाबन्ध “अ” में :—

(ख) स्तम्भ संख्या 6 के सामने विद्यमान उपबन्धों में शब्दों और अंकों "18 से 35 वर्ष" के स्थान पर "18 से 38 वर्ष" शब्द और अंक प्रतिस्थापित किए जाएंगे।

अजय प्रसाद,
वित्तायुक्त एवं अधिकारी ।

Provided further that where a person becomes ineligible to be considered for promotion on account of the requirements of the preceding proviso, the person(s) junior to him shall also be deemed to be ineligible for consideration for such promotion.

Explanation.—The last proviso shall not render the junior incumbents ineligible for consideration for promotion if the senior ineligible persons happened to be Ex-servicemen recruited under the provisions of Rule 3 of Demobilized Armed Forces Personnel (Reservation of Vacancies in Himachal State Non-Technical Services) Rules, 1972 and having been given the benefit of seniority thereunder or recruited under the provisions of Rule 3 of Ex-servicemen (Reservation of Vacancies in the Himachal Pradesh Technical Services) Rules, 1985 and having been given the benefit of seniority thereunder.

(2) Similarly, in all cases of confirmation, continuous *ad hoc* service rendered on the feeder post upto 31-3-98, if any, prior to the regular appointment/promotion against such post shall be taken into account towards the length of service, if the *ad hoc* appointment/promotion had been made after proper selection and in accordance with the provision of the Recruitment and Promotion Rules:

Provided that *inter-se* seniority as a result of confirmation after taking into account *ad hoc* service rendered upto 31-3-98 as referred to above shall remain unchanged.

By order,

AJAY PRASAD,
Financial Commissioner-cum-Secretary.

भाषा, कला एवं संस्कृति विभाग

अधिसूचना

शिमला-2, 2 फरवरी, 2000

संख्या एल० सी० डी०-ए (३) ७०१९९.—हिमाचल प्रदेश के राज्यपाल, भारत के संविधान के अनुच्छेद ३०९ के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, हिमाचल प्रदेश लोक सेवा आयोग के परामर्श से, इस विभाग की अधिवृत्त संख्या भाषा-ए (३) ९/८९ तारीख २०-४-१९९१ द्वारा अधिवृत्त भाषा, कला एवं संस्कृति विभाग, हिमाचल प्रदेश में विद्युत तंत्रों (इलेक्ट्रीशियन) वर्ग-३ (आरक्षणित)

[Authoritative English text of this Department Notification No. LCD-A(3) 70/99 dated 2-2-2000 as required under clause (3) of Article 348 of the Constitution of India].

LANGUAGE, ARTS AND CULTURE DEPARTMENT
NOTIFICATION

Shimla-2, the 2nd February, 2000

No. LCD-A (3) 70/99.—In exercise of the powers conferred by proviso to Article 309 of the Constitution of India, the Governor, Himachal Pradesh in consultation with the Himachal Pradesh Public Service Commission is pleased to make the following rules to amend the Himachal Pradesh Language, Arts and Culture Department, Electrician (Class-III, Non-Gazetted) Recruitment and Promotion Rules, notified *vide* this department notification No. Bhasha-A (3)9/89 dated 20-4-91, namely:—

1. *Short title and commencement.*—(1) These Rules may be called the Himachal Pradesh Language Arts and Culture Department, Electrician (Class-III, Non-Gazetted) Recruitment and Promotion (First Amendment) Rules, 2000.

(2) These rules shall come into force from the date of publication in the Rajpatra, Himachal Pradesh.

2. Amendment of Annexure "A".—In Annexure "A" to the Himachal Pradesh Language, Arts and Culture Department, Electrician (Class-II, Non-Gazetted) Recruitment and Promotion Rules, 1991,

(a) For the existing entries against Column No. 4, the following shall be substituted namely :—

"Rs. 3120-100-3220-110-3660-120-4260-140-4400-150-5160."

(b) In provisions against col. No. 6, for the words and figures "between 18 to 35 years", the words and figures "Between 18 to 38 years" shall be substituted.

By order,

AJAY PRASAD,
Financial Commissioner-cum-Secretary.

भाग-4—स्थानीय स्वायत्त शासन, प्युनिसिपल बोर्ड, डिस्ट्रिक्ट बोर्ड, नोटिफाइड और टाउन एरिया तथा पंचायती राज विभाग

अन्य-

विचार की
एक के भर्त
: पण्तु
की अपक्ष
अपाय हों
विचार के

भाग-5—वैयक्तिक अधिसूचनाएं और विज्ञापन

ब अदालत श्री हरबंस लाल इन्दौरिया, तहसीलदार एवं सहायक समाहर्ता प्रथम श्रेणी, तहसील भोरंज, जिला हमीरपुर, हिमाचल प्रदेश

ब मुकदमा :

प्रेमी देवी पत्नी पृथो चन्द, वासी टीका भमनोह, तप्पा बमसन, तहसील भोरंज ।

बनाम

पृथी चन्द पुत्र श्री महन्त राम, वासी टीका भमनोह, तप्पा बमसन, तहसील भोरंज ।

विषय.—प्राथना-पत्र तपदीक करने इन्तकाल मकफूद उल खबरी मितजानिव पृथी चन्द पुत्र श्री महन्त राम, निवासी भमनोह, तप्पा बमसन, जिला हमीरपुर, हिमाचल प्रदेश ।

उपरोक्त वादियों ने इस अदालत में प्राथना-पत्र गुजारा है कि पृथी चन्द पुत्र महन्त राम, वासी भमनोह, तप्पा बमसन, तहसील भोरंज, जिला हमीरपुर अरसा 18 सालों से लापता है और इस अरसा में घर नहीं आया है, न ही किसी रिश्तेदार को मिला है । इस समय उसके जीवित होने या न होने का इल्म नहीं है । उसकी बरास्त का इन्तकाल बाबत अराजी इन्तकाल नम्बर 273 मकफूद उल खबरी, मुहाल भमनोह व मुशाना, तहसील भोरंज, जिला हमीरपुर ने दर्ज होकर बराये फैसला व अदालत बिचाराधीन है ।

अतः इस इश्तहार द्वारा उपरोक्त प्रत्यार्थी की सूचित किया जाता है कि उपरोक्त इन्तकालों को तसदीक होने बारे, उसे कोई एतराज व उजर हो तो वह असास्तन/वकालतन इस अदालत में हाजिर आकर दिनांक 1-4-2000 की प्रातः 10 बजे पेश करें । इसके बाद कोई उजर नहीं मुता जाएगा । इन्तकाल नियमानुसार कर दिया जाएगा ।

आज दिनांक 19-2-2000 को हमारे हस्ताक्षर व मोहर अदालत से जारी हुआ ।

मोहर ।

हरबंस लाल इन्दौरिया,
सहायक समाहर्ता प्रथम श्रेणी,
तहसील भोरंज, जिला हमीरपुर,
हिमाचल प्रदेश ।

अदालती सूचना

ब अदालत श्री कुशल सिंह राणा, नायब तहसीलदार, भू-व्यवस्था एवं सहायक समाहर्ता, द्वितीय श्रेणी, वृत्त विमल, उप-तहसील डटवाल (विमल), तहसील बड़सर, जिला हमीरपुर, हिमाचल प्रदेश

तपदीक इन्तकाल नम्बर 163-164 मकफूद उल खबरी बाबत टीका अगवीं बूहली, मौजा डटवाल ।

सर्वश्री रूप चन्द, कृष्ण चन्द, प्रेम सिंह पुत्र मन्त राम, निवासी मुहाल अगवीं बूहली, मौजा डटवाल, तहसील बड़सर, जिला हमीरपुर, हिमाचल प्रदेश ।

बनाम

श्री लच्छमण, उधो पुत्र गोविन्दा पुत्र सेहणू, निवासी टीका अगवीं बूहली, मौजा डटवाल, तहसील बड़सर, जिला हमीरपुर, हिमाचल प्रदेश ।

इश्तहार आर्डर 5, नियम 20 सो0 पी0 सो0 के अधीन जारी करके लच्छमण, उधो पुत्र गोविन्दा को सूचित किया जाता है कि यदि वे इस सप्ताह में जीवित हो या किसी को उक्त लच्छमण व उधो के जीवित होने की सूचना हो तो वे असास्तन या वकालतन

हमारे कार्यालय में उपस्थित होकर दिनांक 6-4-2000 को या उससे पूर्व अपना एतराज पेश कर सकता है । नियम निधि को कोई एतराज न होने की मूरत में इन्तकाल नम्बर 163-164 जायज वारमान के नाम तपदीक कर दिए जावेंगे बाद में कोई एतराज काबिले समायत न होंगे ।

आज दिनांक 8-3-2000 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ ।

मोहर ।

कुशल सिंह राणा,
सहायक समाहर्ता, भू-व्यवस्था,
द्वितीय श्रेणी, वृत्त विमल,
जिला हमीरपुर, हिमाचल प्रदेश ।

ब अदालत श्री पी0 आर0 वर्मा, सहायक समाहर्ता, द्वितीय श्रेणी, मुजानपुर, तहसील मुजानपुर, जिला हमीरपुर (हि0 प्र0)

श्री प्रताप सिंह पुत्र किरपा, वासी गांव थाची अलोहियां, मौजा जंगल राजगिर, तहसील मुजानपुर, जिला हमीरपुर .. (नायल) ।

बनाम

श्री साली पुत्र नौधा पुत्र मिथू, वासी गांव थाची अलोहियां, मौजा जंगल राजगिर, तहसील मुजानपुर, जिला हमीरपुर (हि0 प्र0)
(ममून अलैह) ।

विषय.—प्राथना-पत्र अखराज नाम ममून अलैह ववजह मकफूद उल खबरी ममून अलैह अरसा 29 वर्ष दर्ज व तपदीक फरमाये जाने इन्तकाल बरास्त मकफूद उल खबरी, वाक्या टीका थाची अलोहियां, मौजा जंगल राजगिर ।

मुकदमा उपरोक्त उनवान वाना में श्री साली पुत्र नौधा पुत्र मिथू, वासी गांव थाची अलोहियां, मौजा जंगल राजगिर अरसा लगभग 29 वर्ष से लापता तपदीक हुआ है, इसलिए उसकी नमाम सम्पत्ति को जायज वारमान के नाम करवाने के लिए श्री प्रताप सिंह पुत्र किरपा सायल वणिग ने अदालत हुआ में एक प्राथना-पत्र गुजारा है । इस सम्बन्ध में इन्तकाल नम्बर 382 मकफूद उल खबरी दिनांक 15-1-99 को साली पुत्र नौधा पुत्र मिथू बनाम श्रीमती रमजूदेवी पुत्री नौधा पुत्र मिथू वाक्या टीका थाची अलोहियां, मौजा जंगल राजगिर दर्ज रजिस्टर है ।

अतः इस इश्तहार द्वारा श्री साली वणिग व ग्राम जनता को सूचित किया जाता है कि अगर इस सम्बन्ध में साली वणिग के जीवित होने या उसके पता बारे किसी भी व्यक्ति को कोई जानकारी हो या वणिग इन्तकाल के तसदीक (फैसला) करने बारे किसी व्यक्ति को कोई एतराज हो तो वह दिनांक 6-4-2000 को अदालत हुआ में प्रातः 10 बजे असास्तन या वकालतन हाजिर आकर अपना उजर/एतराज पेश कर सकता है अन्यथा उपरोक्त दिनांक 6-4-2000 के बाद फैसला नियमानुसार बहक श्रीमती रमजू देवी वणिग कर दिया जायेगा और उपरोक्त दिनांक के बाद इस सम्बन्ध में कोई भी उजर/एतराज मान्य नहीं होगा ।

आज दिनांक 22-2-2000 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ ।

मोहर ।

पी0 आर0 वर्मा,
सहायक समाहर्ता द्वितीय श्रेणी, मुजानपुर,
जिला हमीरपुर, हिमाचल प्रदेश ।

ब प्रशन्न श्री पी० आर० वर्मा, सहायक समाहर्ता, द्वितीय श्रेणी,
सुजानपुर, तहसील सुजानपुर, जिला हमीरपुर, हिमाचल प्रदेश

श्री प्रताप सिंह पुत्र श्री किरपा, वासी गांव थावी अलोहिया,
मौजा जंगल राजगिर, तहसील सुजानपुर, जिला हमीरपुर, हिमाचल
प्रदेश

वनाम

श्री साली पुत्र नौधा पुत्र सिधू, वासी गांव थावी अलोहिया,
मौजा जंगल राजगिर, तहसील सुजानपुर, जिला हमीरपुर, हिमाचल
प्रदेश

विषय—गर्भना-पत्र अखराज नाम मसूजप्रलैह बबजह मरकूद
उल खवरी मसूजप्रलैह अस्ता 29 वर्ष दर्ज न तसदीक
फरमाये जाने इत्तकाल वरास्त मरकूद उल खवरी वाक्या
टीका खैरो, मौजा जंगल राजगिर।

मुकद्दमा उपरोक्त उनवान वाला में श्री साली पुत्र नौधा पुत्र
सिधू, वासी गांव थावी अलोहिया, मौजा जंगल राजगिर अस्ता
लगभग 29 वर्ष ने चापता तादीक हुआ है। इसलिए उसकी
तमाम सन्निधि को जायज वारदान के नाम करवाने के लिए
श्री प्रताप सिंह पुत्र किरपा नामक वर्णित ने अदालत हुआ में एक
प्रार्थना-पत्र गुजारा है। इस सम्बन्ध में इत्तकाल नम्बर 1220
मरकूद उल खवरी दिनांक 2-7-1999 को साली पुत्र नौधा पुत्र
सिधू वनाम श्रीमती रमजू देवी पुत्री नौधा पुत्र सिधू स्थित टीका
खैरो, मौजा जंगल राजगिर दर्ज रजिस्टर है। अतः इस इशतहार
द्वारा श्री साली वर्णित न आम जनता को सूचित किया जाता है
कि अगर इस बारे साली वर्णित के जीवित होने या उसके पना
बारे किसी भी व्यक्ति को कोई जानकारी हो या वर्णित इत्तकाल
के तसदीक (फैसला) करने बारे किसी व्यक्ति को कोई एतराज
हो तो वह दिनांक 6-4-2000 को अदालत हुआ में प्रातः 10.00
बजे अशालतन या वकालतन हाजिर आकर अपना उजर एतराज
पेश कर सकता है अन्यथा उपरोक्त दिनांक 6-4-2000 के बाद
फैसला नियमानुसार वहक श्रीमती रमजू देवी वर्णित कर दिया
जायेगा और उपरोक्त दिनांक के बाद इस सम्बन्ध में कोई भी
उजर एतराज मान्य नहीं होगा।

आज दिनांक 22-2-2000 को मेरे हस्ताक्षर व मोहर अदालत
से जारी हुआ।

मोहर।

पी० आर० वर्मा,
सहायक समाहर्ता द्वितीय श्रेणी,
सुजानपुर, तहसील सुजानपुर,
जिला हमीरपुर, हिमाचल प्रदेश।

ब अदालत श्री राम चन्द कौशल, उप-पंजीकाध्यक्ष, चुराह, जिला
चम्बा, हिमाचल प्रदेश

कनक पुत्री देवी सिंह, साकिन भंगनोवा, परगना नोह टिकरी,
तहसील चुराह, जिला चम्बा, हिमाचल प्रदेश।

वनाम

ग्राम जनता

दरखास्त बगर्ज जेर धारा 13 (3) जन्म एवं मृत्यु पंजीकरण
अधिनियम, 1969.

इस न्यायालय में श्रीमती कनक पुत्री श्री देवी सिंह, माकिन
मंगलोथा, परगना लोह टिकरी, तहसील चुराह, जिला चम्बा ने
दरखास्त गुजारी है कि उसके निम्नलिखित बच्चों को उसने ग्राम
पंचायत रिकार्ड भराड़ा (मंगलोथा) में दर्ज नहीं करवाया है,
जिसे वह जेर धारा 13 (3) के अन्तर्गत पंचायत रिकार्ड में
दर्ज करवाना चाहती है।

1. छकन पुत्री देवी सिंह जन्म तिथि 6-5-1992, 2. नारदेई
पुत्री देवी सिंह जन्म तिथि 13-8-1994, 3. लाल चन्द पुत्र जन्म
तिथि 13-3-1997.

अतः इस इशतहार द्वारा सर्वसाधारण एवं आम जनता को सूचित
किया जाता है कि उपरोक्त को पंचायत रिकार्ड भराड़ा (गांव
मंगलोथा) में दर्ज करने बारा किसी को कोई उजर व एतराज
हो तो वह दिनांक 5-4-2000 को अदालतन या वकालतन हाजिर
न्यायालय आकर मुकाम भंजराडू में प्रातः 10 बजे पेरवी मुकद्दमा
कर सकता है। इसके पश्चात् कोई भी उजर व एतराज काबिले
समायत न होगा तथा उपरोक्त के पंजीकरण बारा आदेश पारित
कर दिए जाएंगे।

आज दिनांक 7-3-2000 को मेरे हस्ताक्षर व मोहर अदालत से
जारी किया गया।

मोहर।

राम चन्द कौशल,
उप-पंजीकाध्यक्ष,
चुराह, जिला चम्बा,
हिमाचल प्रदेश।

ब अदालत उप-पंजीकाध्यक्ष, चुराह, जिला चम्बा, हिमाचल प्रदेश

तुला राम पुत्र सागर, साकिन गुवाड़ी, परगना हिमगिरी, तहसील
चुराह, जिला चम्बा, हिमाचल प्रदेश।

वनाम

ग्राम जनता

दरखास्त बगर्ज जेर धारा 13 (3) जन्म एवं मृत्यु पंजीकरण
अधिनियम, 1969.

इस न्यायालय में श्री तुला राम पुत्र सागर, साकिन गुवाड़ी,
परगना हिमगिरी, तहसील चुराह, जिला चम्बा, हिमाचल प्रदेश
उपरोक्त ने दरखास्त गुजारी है कि उनकी लड़की चम्पा
कुमारी जिसकी जन्म तिथि 15-4-97 है जो ग्राम पंचायत पक्षेई
परिवार रिकार्ड रजिस्टर में दर्ज नहीं है। जिसको वह अब जेर
धारा 13 (3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969 के
अन्तर्गत पंजीकृत करवाना चाहता है।

अतः इस इशतहार द्वारा सर्वसाधारण जनता को सूचित किया
जाता है कि उपरोक्त को पंचायत रिकार्ड पक्षेई में दर्ज करने बारा
कोई उजर व एतराज हो तो वह हाजिर अदालत मिति 5-4-2000
को प्रातः 10 बजे आकर पेरवी मुकद्दमा अदालतन या वकालतन
करे। इसके पश्चात् कोई भी उजर व एतराज काबिले समायत न
होगा एवं उपरोक्त चम्पा कुमारी पुत्री तुला राम को ग्राम पंचायत
अभिलेख पक्षेई में पंजीकृत करने बारा आदेश कर दिए जाएंगे।

आज दिनांक 7-3-2000 को मेरे हस्ताक्षर व मोहर अदालत
से जारी किया गया।

मोहर।

हस्ताक्षरित/-
उप-पंजीकाध्यक्ष,
चुराह, जिला चम्बा,
हिमाचल प्रदेश।

ब अदालत एम० आर० गुलेरिया, नायब तहसीलदार एवं सहायक
समाहर्ता द्वितीय श्रेणी, जयसिंहपुर, जिला कांगड़ा, हिमाचल प्रदेश

मुकद्दमा नं०: 42/एन/99
तारीख पेशी: 30-3-2000

किस्म मुकद्दमा: भूमि तकसीम

उनवान मुकद्दमा:

धर्म सिंह

वनाम

श्रीराम सिंह आदि।

विषय—भूमि खाना नं० 27, खतोनी नं० 131 ता 143,
फ्लिटा 41, रकबा तादादी 4-01-34 है० स्थित म्हाल
मुबल, मौजा चड़ियार, तहसील जयसिंहपुर, जिला
कांगड़ा, हिमाचल प्रदेश।

विचार कि
पद के अर्हता
पद
की अपक्षा
अप्राप्त हो
विचार के

नोटिस बनाम :

1. प्रीतम सिंह, 2. मेहर सिंह, 3. सुनील सिंह पुत्रान, 4. श्रीमती ध्यासा देवी विधवा श्री हब्बू, 5. मिलाप चन्द, 6. विष्वा नाथ पुत्र श्री खजाना, 7. प्रताप सिंह, 8. गोतम सिंह पुत्रान तुंगल, 9. श्रीमती सुभाषना देवी विधवा गुलेर चन्द, 10. माया देवी, 11. सत्या देवी, 12. दया देवी पुत्रिया, 13. सुभाष चन्द पुत्र श्री दमोदर, 14. होगियाख, 15. शोन्की, 16. सुरली, 17. सरवन पुत्रान सुरना, 18. अमरी, 19. जमीत सिंह, 20. कन्ठ राम, 21. पुर्वी राम, 22. प्रताप चन्द पुत्रान मनपत, 23. सतीश कुमार, 24. सुनील कुमार पुत्रान, 25. लीला विधवा पंचम चन्द, 26. मुबा पुत्र रोडा, 27. शक्ति चन्द, 28. देश राज, 29. कुलतार चन्द, 30. मोकार चन्द, 31. संसार चन्द, 32. मलंगा देवी, 33. बीना देवी पुत्रिया, 34. श्रीमती अजुध्या देवी विधवा श्री जोडा, 35. राजिन्द्र कुमार, 36. मोहिन्द कुमार, 37. बजीन्द्र कुमार पुत्रान, 38. मन्धी देवी विधवा नोधू, 39. सुकेश कुमार पुत्र श्री दलीपा, 40. प्रमोद सिंह, 41. लश्करी राम, 42. गुनी राम पुत्रान, 43. सुखा देवी, 44. गंदा देवी पुत्री श्री शिव, 45. कमला देवी पुत्री लीला देवी, 46. खोदलू पुत्र तारा, 47. कमलेश देवी पुत्री, 48. रानो देवी विधवा भीम सिंह, 49. श्रीमती जाना देवी, 50. विद्या देवी, 51. सत्या देवी, 52. विक्रमा देवी पुत्रिया श्री जीतन, 53. संसार चन्द, 54. बलदेव सिंह, 55. पप उपनाम राकेश कुमार, 56. जीवन देवी पुत्री, 57. भगवती देवी विधवा खजाना राम, 58. टमकू पुत्र कहू, 59. विधि चन्द पुत्र सरन दास, 60. उषा राम पुत्र प्रम दशाल, 61. प्रम दशाल पुत्र लखू, 62. तानर पुत्र किरलू, 63. अमर सिंह पुत्र मोविन्द, 64. नरवन कुमार पुत्र, 65. सुतो देवी पुत्री हरि चन्द, 66. सुनी देवी पुत्री कल्याण चन्द पुत्र हरमुख, सभी गांव बामो मुंगल, मोजा चडियार, तहसील जयसिंहपुर, जिला कांगड़ा, हिमाचल प्रदेश।

उपरोक्त विषय के सम्बन्ध में फरीकदोयम को समन जारी किए गए। परन्तु फरीकदोयम हाजिर अदालत ना आ रहे हैं। न ही उनके मही पते उपलब्ध हो रहे हैं। अतः उपरोक्त फरीकदोयम को इस इशतहार राजपत्र द्वारा सूचित किया जाता है कि वह दिनांक 30-3-2000 को प्रातः 10 बजे स्वयं या किसी वकील के माध्यम से अदालत हजा में हाजिर होकर अपने मुकद्दमा की पैरवी करें अन्यथा आपके विरुद्ध एक तरफा कार्यवाही अमल में लाई जाएगी।

यह इशतहार आज दिनांक 9-3-2000 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी किया गया।

मोहर। एम0 आर0 गुलेरिया,
नायब तहसीलदार एवं सहायक समाहर्ता द्वितीय श्रेणी,
जयसिंहपुर, जिला कांगड़ा।

ब अदालत एम0 आर0 गुलेरिया, नायब तहसीलदार एवं सहायक समाहर्ता द्वितीय श्रेणी, जयसिंहपुर, जिला कांगड़ा
हिमाचल प्रदेश

मुकद्दमा नं0: 37/एन/99 किस्म मुकद्दमा : भूमि तकसीम
तारीख पेशी: 30-3-2000

उनवान मुकद्दमा : धर्म सिंह बनाम खोदलू आदि।

विषय.—भूमि तकसीम खाता नं 35, खतोनी नं0 160 ता 176 खमरा, कित्ता 19 रकबा 0-9-77 है0 स्थित मुहाल मुंगल, मोजा चडियार, तहसील जयसिंहपुर, जिला कांगड़ा।

नोटिस बनाम :

1. खोदलू पुत्र तारा चन्द, 2. सरनदास पुत्र निहाला, 3. विधि चन्द पुत्र सरन दास, 4. प्रम दशाल पुत्र लखू, 5. तोतर सिंह, 6. किरलू, 7. नोख, 8. तरलोच चन्द, 9. चूनी लाल पुत्रान श्री तारा, 10. रमेश लाल, 11. सुरिन्द लाल पुत्रान श्री अमर नाथ, 12. चैन सिंह, 13. प्रीतम सिंह, 14. किशोरी लाल और श्रीमती मनमरी पुत्रान/विधवा स्वर्गीय श्री कालू, 16. सुकेश

कुमार पुत्र दलीपा, 17. मुवा पुत्र राया, 18. कमलेश पुत्र, 19. श्रीमती मन्ताष कुमारी पुत्री, 20. श्रीमती चिन्ता विधवा भूरी सिंह, 21. भवानी पुत्र ठाकुर दास, 22. प्रीतम सिंह, 23. गुलेर सिंह, 24. गोतम पुत्रान तुंगल, 25. अमरी, 26. जमीत सिंह, 27. कन्ठ राम, 28. पुर्वी राम, 29. प्रताप सिंह, 30. मतीश कुमार, 31. सुनील कुमार पुत्रान 32. श्रीमती लीला विधवा पंचम, 33. मुवा पुत्र राया, निवासी गांव मुंगल, मोजा चडियार, तहसील जयसिंहपुर, जिला कांगड़ा, हिमाचल प्रदेश।

उपरोक्त विषय के सम्बन्ध में फरीकदोयम को समन जारी किए गए। परन्तु फरीकदोयम हाजिर अदालत ना आ रहे हैं न ही उनके मही पते उपलब्ध हो रहे हैं। अतः फरीकदोयम को इस इशतहार राजपत्र द्वारा सूचित किया जाता है कि वह दिनांक 30-3-2000 को प्रातः 10 बजे स्वयं या किसी वकील के माध्यम से अदालत हजा में हाजिर होकर अपने मुकद्दमा की पैरवी करें अन्यथा आपके विरुद्ध एक तरफा कार्यवाही अमल में लाई जाएगी।

यह इशतहार आज दिनांक 9-3-2000 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी किया गया।

मोहर। एम0 आर0 गुलेरिया,
नायब तहसीलदार एवं सहायक समाहर्ता द्वितीय श्रेणी,
जयसिंहपुर, जिला कांगड़ा (हि0 प्र0)।

ब अदालत सहायक समाहर्ता, द्वितीय श्रेणी एवं तहसीलदार, खुण्डिया,
जिला कांगड़ा, हिमाचल प्रदेश

श्री राज कुमार पुत्र लच्छमण दास, निवासी बोला, मोजा खरयाना, तहसील खुण्डिया।

बनाम आम जनता

विषय.—दरज्वास्त बावत राजस्व रिकार्ड में नाम की दहस्ती बारे।

नोटिस बनाम आम जनता।

उपरोक्त विषय के सम्बन्ध में प्रार्थी ने प्रार्थना-पत्र इस अदालत हजा में गुजारा है कि उसका अमल नाम राज कुमार पुत्र लच्छमण है, परन्तु गलती से राजस्व रिकार्ड में राजू राम पुत्र लच्छमण का इन्दाज हुआ है जिस वजह से राजस्व विभाग से किसी भी प्रकार का प्रमाण-पत्र जारी करवाने पर भिन्नता पाई जाती है। जिसकी प्रार्थी दहस्ती करवाना चाहता है।

अतः इस इशतहार द्वारा सर्वसाधारण को सूचित किया जाता है कि उक्त प्रकरण में किसी व्यक्ति विशेष को नाम दहस्ती बारे एतराज हो तो वह अदालत हजा में दिनांक 3-4-2000 को सुबह 10.00 बजे हाजिर आकर अपना उजर पेश करे अन्यथा कावे-बाही बकुरफा अमल में लाई जाएगी।

मोहर। हस्ताक्षरित/-
सहायक समाहर्ता द्वितीय श्रेणी एवं तहसीलदार,
खुण्डिया, जिला कांगड़ा, हिमाचल प्रदेश।

ब अदालत श्री वी0 आर0 कपिल, सहायक समाहर्ता प्रथम श्रेणी
शाहपुर

मुकद्दमा नं0 42/97 तारीख पेशी 7-4-2000

विषय.—भूमि तकसीम खाता नं0 15, खतोनी नं0 25-26-27, खमरा नं0 103-117-102-119-116, कित्ता 5, रकबा 0-25-68 हैक्टैर, वाक्का मुहाल मोरी, मोजा मनाना, तहसील शाहपुर।

मूल सिंह पुत्र राये सिंह, निवासी चौरी मोजा भनाला, तहसील शाहपुर, जिला कांगड़ा।

In the Court of Shri P. C. Sharma, Senior Sub-Judge, Mandi, Himachal Pradesh

Suc. Act No..../2000

बनाम

1. दीना नाथ, 2. मदन लाल पुत्रान, 3. श्रीमती शान्ती, 4. ललितता, 5. कमलेश पुत्रियां, 6. मुरतू बेचा कून्ज, 7. सत प्रकाश पुत्र, 8. राज कुमारी पुत्री श्याम लाल, निवासी गांव वडा 0 शाहपुर, तहसील शाहपुर, 9. रमेल सिंह पुत्र, 10. राम सिंह पुत्रान राये सिंह, निवासी महाल चौरी, मोजा भनाला, तहसील शाहपुर, 11. सरोज पत्नी सत प्रकाश पुत्री श्याम लाल, निवासी कोटला, तहसील नूरपुर, जिला कांगड़ा (हि 0 प्र 0)।

Diwan Singh, 2. Surinder Kumar, 3. Harish Kumar, 4. Gagan sons of Late Natar Singh, r/o V. & P. O. Gutkar, Tehsil Sadar, District Mandi, Himachal Pradesh .. Petitioners.

Versus

General Public.

Application U/o 372 Indian Succession Act.

Whereas in the above noted case the Petitioner has filed an application U/o 372 of the Indian Succession Act for the grant of succession certificate in respect of share of late Shri Neter Singh Mahalakshmi Roller Flour Mills Pvt. Gutkar, District Mandi, Himachal Pradesh.

Hence, this proclamation is hereby issued to the general public of the illaqua Balh (Gutkar) to file objection, if any, in this court on 5-4-2000 either himself, through an authorised agent of pleader, failing which the petition will be heard and determined *ex parte*.

Given under my hand and seal of this court today the 14th March, 2000.

Seal.

P. C. Sharma,
Senior Sub-Judge, Mandi,
Himachal Pradesh.

PROCLAMATION UNDER ORDER 5, RULE 20 (A)
C. P. C.

Before the Sub Divisional Collector Sarkaghat, District Mandi, Himachal Pradesh

In the matter of:-

Om Chand s/o Jhaphar, r/o Village Jadhya, Ill. Anantpur, Tehsil Sarkaghat, District Mandi, Himachal Pradesh .. Appellant.

Versus

1. Shri Nanak Chand s/o Shri Moji Ram, 2. Smt. Karju wd/o Shri Moji Ram both residents of Village Jhadyar Ill. Anantpur Tehsil Sarkaghat, District Mandi, Himachal Pradesh .. Respondents.

1. Sohanu Ram, s/o Mahantu r/o Jhadyar, 2. Brahmi Devi d/o Mahantu, 3. Sukhi Devi d/o Mahantu, r/o Gharwasra, 4. Puran Chand s/o Jhaphar, 5. Bohari, 6. Jai Dei, 7. Geeta Devi, all ds/o Jhaphar, 8. Durgi Devi d/o Laju Ram, r/o Village Greyoh, 9. Govind Ram s/o Dev Ram, 10. Partap Singh, 11. Ramesh Chand both sons of Govind Ram, 12. Pinki, 13. Dharmi ds/o Govind 14. Sher Singh s/o Dodu Ram, 15. Satya Devi, d/o Dodu, 16. Mehtabi, 17. Shila, 18. Nila, 19. Damodari all daughters of Sher Singh all residents of Village Jhadyar, 20. Nek Ram s/o Sher Singh, 21. Jagdish, 22. Budhi Chand, 23. Suresh all sons of Shri Sher Singh, 24. Nek Ram, 25. Ajit Singh both sons of Shri Hari Singh, 26. Mansa Devi, 27. Sarla Devi both daughters of Shri Hari Singh, 28. Kala Devi w/o Hari Singh, 29. Ram Saran s/o Harbhaj, 30. Basant Singh, 31. Balwant Singh, 32. Om Chand s/o Gurbhajan Singh All residents of Village Jhadyar Ill. Anantpur, Tehsil Sarkaghat, 33. The Executive Engineer P. W. D. Divn. Sarkaghat, District Mandi, Himachal Pradesh

..Proforma Respondents.

Appeal under section 14 of the Himachal Pradesh Land Rev. Act against the order of the A.C. IInd Grade Sarkaghat dated 17-12-98.

उपरोक्त दावा तकसीम में प्रतिवादीगण को अदालत में हाजिर आने के लिए कई बार समन जारी किये गये परन्तु समन द्वारा बामीन हस्ब जानता न हुई। अतः न्यायालय को पूर्ण विश्वास हो गया है कि प्रतिवादीगण की तलबी साधारण तरीके से होनी असम्भव है।

अतः हिमाचल प्रदेश राजपत्र इस्तहार द्वारा उपरोक्त प्रतिवादीगण को सूचित किया जाता है कि अगर किसी को उक्त तकसीम भूमि बारे कोई उजर/एतराज हो तो वह दिनांक 7-4-2000 को प्रातः 10.00 बजे अदालत या बकालतन अदालत हाजर आकर मुकद्दमे की पैरवी करें अन्यथा हाजर न आने की बूरत में अकतरफा कार्यवाही अमल में लाई जाएगी।

आज दिनांक 2-9-1999 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

वी 0 आर 0 कपिल,
सहायक समाहर्ता प्रथम श्रेणी,
तहसील शाहपुर, जिला कांगड़ा (हि 0 प्र 0)।

व अदालत श्री अमरीक सिंह, सहायक समाहर्ता द्वितीय श्रेणी, बुरल, जिला कांगड़ा (हि 0 प्र 0)

मुकद्दमा नम्बर 1/99 तारीख पेशी 6-4-2000

नाम मुकद्दमा: मोनक राम बनाम राम देई आदि।

किस्म मुकद्दमा: तकसीम भूमि खाता नम्बर 110; खतीनी नम्बर 125 खसरा कित्ता 26 रकबा नादादी 2-73-29 हे 0 बाक्या महाल मन्द, मोजा वन्दाह उप-तहसील बुरल, जिला कांगड़ा (हि 0 प्र 0)।

बनाम श्रीमती कान्ता देवी पुत्री जैसो राम धर्मपत्नी बिलोक चन्द निवासी उपरला पुडवा, तहसील पालमपुर .. उतरवादीगण।

उपरोक्त उनवान मुकद्दमा में उतरवादीगण को बजरिया समन तलब करने पर पाया गया कि वह मुकाम पर नहीं रहती है और उसका सही बना न होने के कारण उसकी तामील साधारण ढंग से नहीं हो सकती है।

अतः उसे इस इस्तहार के माध्यम से सूचित किया जाता है कि वह अदालत या बकालतन दिनांक 6-4-2000 को प्रातः 10.00 बजे हाजर अदालत आकर पैरवी मुकद्दमा करें अन्यथा हस्ब जानता कार्यवाही अमल में लाई जाएगी।

मोहर।

अमरीक सिंह,
सहायक समाहर्ता द्वितीय श्रेणी,
बुरल, जिला कांगड़ा
(हि 0 प्र 0)।

विचार कि
पद के भर्ती
पन्तु
की अपेक्षा
अप्राप्त हो
विचार के

To

All the Proforma Respondents 1 to 33 and Respondent No. 2 Karju Devi.

Whereas in the above noted case, it has been proved to the satisfaction of this court that the above noted proforma respondents and respondent No. 2 Smt. Karju Devi can not be served in an ordinary way. Hence, this proclamation under order 5, rule 20 (A) C. P. C. is hereby issued to them that they should appear in this court on 5-4-2000 at 10 A. M. personally or through an authorised agent to defend the case, failing which *ex parte* proceedings will be initiated against them.

Given under my hand and seal of this court today on 6th March 2000.

Seal.

SUBHASH NANDA,
Collector,
Sub Division Sarkaghat,
District Mandi, Himachal Pradesh.

ब अदालत श्री विजय चन्दन, स्पेशल मैरीज अधिकारी (एन 0 डी 0 एम),
सुन्दरनगर, जिला मण्डी, हिमाचल प्रदेश

ब मुकद्दमा :

1. श्री गगनदीप पुत्र श्री मोहन लाल, निवासी क्वाटर नम्बर 21/एस 0-4, बी 0 एस 0 एल 0 कालीनी, तहसील सुन्दरनगर, जिला मण्डी, हिमाचल प्रदेश, 2. चंचल पुत्री नारायण सिंह, निवासी पलोहटा, तहसील सुन्दरनगर, जिला मण्डी (हि 0 प्र 0) .. प्राथीगण।

बनाम

ग्राम जनता

.. प्रतिवादी।

प्रार्थना-पत्र जेर घारा 15 स्पेशल मैरीज ऐक्ट, 1954 के अन्तर्गत विवाह पंजीकरण करने।

उपरोक्त मुकद्दमा में श्री गगनदीप व चंचल प्राथीगण उपरोक्त ने दिनांक 23-2-2000 को इस अदालत में प्रार्थना-पत्र पेश किया है कि उन्होंने दिनांक 23-2-2000 को हिन्दू रीति-रिवाज के अनुसार माहामाया मन्दिर, सुन्दरनगर में शादी कर ली है और तब से पति-पत्नी के रूप में रहने चले आ रहे हैं। जेर घारा 15 स्पेशल मैरीज ऐक्ट, 1954 के अन्तर्गत उनकी शादी पंजीकृत की जावे।

अतः ग्राम जनता को इस इशतहार द्वारा सूचित किया जाता है कि यदि किसी भी व्यक्ति को इस बारा उजर या एतराज आदि हो तो वह पेशी दिनांक 05-4-2000 समय 10.00 बजे सुबह या इससे पूर्व असाततन या वकालतन हाजर अदालत होकर पेश करें, अन्यथा दीगर कार्यवाही एकतरफा अमल में लाई जावेगी।

आज दिनांक 03-3-2000 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

विजय चन्दन,
स्पेशल मैरीज अधिकारी,
सुन्दरनगर, जिला मण्डी,
हिमाचल प्रदेश।

ब अदालत श्री एस 0 एस 0 ठाकुर, नायब तहसीलदार एवं कार्यकारी दण्डाधिकारी करसोग जिला मण्डी, हिमाचल प्रदेश

श्री मान दास पुत्र स्वर्गीय श्री टेक चन्द, निवासी मरोला, ग्राम पंचायत शाकरा, तहसील करसोग, जिला मण्डी।

बनाम

ग्राम जनता

दरख्वास्त जेर घारा 13(3) जन्म एवं मृत्यु रजिस्ट्रेशन अधिनियम, 1969.

श्रीमान दास पुत्र टेक चन्द, निवासी मरोला, ग्राम पंचायत शाकरा तहसील करसोग, जिला मण्डी ने इस न्यायालय में गुजारिश की है कि श्रीमती पंचमू विधवा जगरनाथ, निवासी मारोला ग्राम पंचायत शाकरा ने उप पंजीकाध्यक्ष सुन्नी के पास एक बर्मायत प्रार्थी के नाम की है लेकिन श्रीमती पंचमू की मृत्यु 7-3-1995 को हो गई जिसका इन्दाज सम्बन्धित पंचायत रिकार्ड में दर्ज न है। उसने अपने शपथ पत्र में श्रीमती पंचमू की मृत्यु 7-3-1995 दर्शाई है।

अतः इस अदालती इशतहार द्वारा सर्वसाधारण जनता को सूचित किया जाता है कि यदि उक्त मृत्यु निधि पंचायत रिकार्ड में दर्ज करने वाले किसी को कोई एतराज हो तो वह मिति 5-4-2000 या उससे पूर्व हाजर होकर अपना एतराज पेश कर सकता है। अन्यथा सम्बन्धित पंचायत मजिब को उक्त मृत्यु निधि दर्ज करने वाले आदेश जारी कर दिये जायेंगे।

आज दिनांक 25-2-2000 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

एस 0 एस 0 ठाकुर,
कार्यकारी दण्डाधिकारी,
करसोग, जिला मण्डी,
हिमाचल प्रदेश।

ब अदालत श्री गीतम सिंह गुलेरिया, नायब तहसीलदार एवं नहायक समाहर्ता द्वितीय श्रेणी, ग्रोट, उप-तहसील ओट, जिला मण्डी, हिमाचल प्रदेश

तकसीम अराजी

श्री राम जी दाम व गुरबक्ष लाल पुत्रगण श्री साधु राम व सुरेन्द्र पाल, जीवन लाल पुत्रगण श्री रामजी दाम, निवासी झोड़ी, उप-तहसील ओट, जिला मण्डी (हि 0 प्र 0) .. वादीगण।

बनाम

श्री हरबंश लाल पुत्र श्री साधु राम, लाल हुसैन पुत्र श्री गुमण, तुले राम पुत्र श्री डामु व श्री संजय कुमार पुत्र श्री हरबंश लाल, निवासोगण झोड़ी, उप-तहसील ओट, जिला मण्डी (हि 0 प्र 0) .. प्रतिवादीगण।

दरख्वास्त तकसीम अराजी खाता खतौनी नं 0 208/294, खसरा नं 0 47, रकबा तादादी 11-19-3 बीघा, मुहाल झोड़ी/508, उप-तहसील ओट, जिला मण्डी, हिमाचल प्रदेश।

उनवान मुकद्दमा उपरोक्त अदालत हजा में जेरे गौर है जिनमें प्रतिवादी मर्व श्री हरबंश लाल, लाल हुसैन, तुले राम अदालत हजा में उपस्थित हो चुके हैं। श्री संजय कुमार पुत्र हरबंश लाल को कई बार बजरिया समन तलव किया गया लेकिन तामील समन साधारण तरीका से न हो सकी है। लिहाजा इस इशतहार द्वारा प्रतिवादी श्री संजय कुमार को सूचित किया जाता है कि वह असाततन या वकालतन मिति 5-4-2000 को हाजर अदालत आकर पैंरवी मुकद्दमा करें नहीं तो एकतरफा कार्यवाही अमल में लाई जायगी।

आज दिनांक 28-2-2000 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

गीतम सिंह गुलेरिया,
सहायक समाहर्ता द्वितीय श्रेणी,
ग्रोट, उप-तहसील ओट, जिला मण्डी,
हिमाचल प्रदेश।

In the Court of Sub-Judge 1st Class Rampur Bushahr,
Distt. Shimla (H. P.)

In re :—

Case No. 1-2 of 2000

1. Smt. Uma Singha d/o, 2. Smt. Indra Moudgill, d/o, 3. Sh. Vijay Kumar Stokes s/o, 4. Sh. Ashok Kumar Stokes s/o, 5. Sh. Vinod Kumar Stokes s/o, 6. Sh. Deepak Kumar Stokes, s/o Late Sh. Prem Chand Stokes through their attorney Smt. Uma Singha the Petitioner No. 1.

All residents of Harmony Hall, Village Baru Bagh, P. O. Thanedhar, Tehsil Kumarsain, Distt. Shimla, H. P. ..Petitioners.

Versus

General Public

..Respondent.

In the matter of succession certificate under section 373 Indian succession act, 1925 in the estate of the deceased Shri Prem Chand Stokes son of Late Satya Nand Stokes r/o Harmony Hall, Village Baru Bagh, P. O. Thanedhar, Tehsil Kumarsain, Distt. Shimla, H. P.

Whereas the above noted petitioners have filed the petition in the Court for Succession Certificate and the same is fixed for 6-4-2000, for the service of General Public.

Hence, this proclamation U/o 20 Rule 5 (A-1) CPC is hereby issued against the above noted respondent to appear before this Court on 6-4-2000 at 10 A.M. personally or through authorised agent or pleader to defend the case failing which the above noted respondent shall be proceeded against *ex-parte*.

Given under my hand and seal of this Court today 1st day of March, 2000.

Seal.

PADAM SINGH,
Sub-Judge 1st Class,
Rampur Bushahr, Distt. Shimla
(H. P.).

ब अदालत श्री राजेश शर्मा, उप-मण्डल दण्डाधिकारी, रोहड़ू, जिला शिमला, हिमाचल प्रदेश

श्री मुदर्शन ओलटा पुत्र श्री लाल दान, ग्राम भननोली, तहसील रोहड़ू, जिला शिमला (हि० प्र०)।

बनाम

ग्राम जनता

प्रार्थना-पत्र बाबत नाम परिवर्तन छोटी लाल से मुदर्शन ओलटा।

श्री मुदर्शन ओलटा पुत्र श्री लाल दान, ग्राम भननोली, तहसील रोहड़ू, जिला शिमला (हि० प्र०) ने इस कार्यालय में अपना नाम परिवर्तन करने हेतु प्रार्थना-पत्र गुजार रखा है कि उसका नाम पहले छोटी लाल था तथा स्कूल शिक्षा बोर्ड के आठवीं, दसवीं के प्रमाण-पत्रों व पंचायत में भी यही नाम अंकित व दर्ज है। अब आवेदक अपना नाम छोटी लाल के बजाए मुदर्शन ओलटा करना चाहता है। आवेदक ने 7 जनवरी, 2000 के अज्ञात समाचार में भी नाम परिवर्तन करने वाले विज्ञापन करवाया है।

अतः इस अदालती इशतहार द्वारा सर्व-साधारण को सूचित किया जाता है कि किसी को भी उक्त आवेदक के नाम परिवर्तन में कोई आपत्ति हो तो अपना आपत्तिनामा दिनांक 3-4-2000 तक या इससे पूर्व इस अदालत में हाजिर होकर प्रस्तुत कर सकता है अन्यथा सम्बन्धित ग्राम पंचायत तथा शिक्षा विभाग को आवेदक के नाम परिवर्तन करने के आदेश पारित कर दिए जाएंगे।

आज दिनांक 2-3-2000 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

राजेश शर्मा,
उप-मण्डल दण्डाधिकारी, रोहड़ू,
जिला शिमला, हिमाचल प्रदेश।

ब अदालत श्री डी० डी० शर्मा, उप-मण्डल दण्डाधिकारी (ग्रामीण), शिमला, जिला शिमला, हिमाचल प्रदेश

श्री दुर्गा दास पुत्र श्री भीखू राम, निवासी ग्राम प्राऊन, डाकघर भराड़ा, तहसील मुन्नी, जिला शिमला (हि० प्र०)।

बनाम

ग्राम जनता

प्रार्थना-पत्र जेर धारा 13(3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969 बाबत नाम व जन्म तिथि पंचायत अभिलेख में दर्ज करने वाले।

श्री दुर्गा दास ने इस अदालत में एक आवेदन पत्र इस आशय के साथ गुजारा है कि उसके बेटे अमित का नाम व जन्म तिथि 18-11-1994 उनकी ग्राम पंचायत करवाली के अभिलेख में दर्ज नहीं कर रखी है। वह उसका नाम व जन्म तिथि ग्राम पंचायत करवाली में दर्ज करने हेतु शपथपत्र व पटवारी हल्का की रिपोर्ट तथा राजपत्र में विज्ञापन ग्राम जनता के प्रचार हेतु प्रकाशित करने के लिए रु० 60/- रु० के भारतीय पोस्टल आर्डर प्रस्तुत कर रखे हैं।

अतः इस अदालती इशतहार द्वारा सर्व-साधारण को सूचित किया जाता है कि यदि किसी को भी उक्त आवेदक के बेटे का नाम व जन्म तिथि उनकी ग्राम पंचायत करवाली के अभिलेख में दर्ज करने में कोई आपत्ति हो तो वह अपना आपत्तिनामा दिनांक 1-4-2000 तक या उससे पूर्व इस अदालत में हाजिर होकर प्रस्तुत कर सकता है अन्यथा सचिव सम्बन्धित ग्राम पंचायत को नाम व जन्म तिथि उनकी पंचायत के अभिलेख में दर्ज करने के आदेश पारित कर दिए जाएंगे।

आज दिनांक 1-3-2000 को मेरे हस्ताक्षर व मोहर अदालत सहित जारी हुआ है।

मोहर।

डी० डी० शर्मा,
उप-मण्डल दण्डाधिकारी (ग्रा०),
शिमला, जिला शिमला।

ब अदालत श्री डी० डी० शर्मा, उप-मण्डल दण्डाधिकारी (ग्रामीण), शिमला, जिला शिमला, हिमाचल प्रदेश

श्री खुशी राम सुपुत्र श्री परस राम, निवासी ग्राम भज्याड़, डाकघर हलोग (धामो), तहसील व जिला शिमला (हि० प्र०)।

बनाम

ग्राम जनता

प्रार्थना पत्र जेर धारा 13 (3) जन्म एवं तत्सू पंजीकरण अधिनियम, 1969 बाबत नाम व जन्म तिथि पंचायत अभिलेख में दर्ज करने वाले।

श्री खुशी राम ने इस अदालत में एक आवेदन-पत्र इस आशय के साथ गुजारा है कि उसकी बेटी कुमारी भावना शर्मा का नाम व जन्म तिथि 06-11-1994 उनको ग्राम पंचायत हलोग क अभिलेख में दर्ज नहीं कर रखी है। वह उसका नाम व जन्म ग्राम पंचायत के अभिलेख में दर्ज करने के लिए शपथपत्र व पटवारी हल्का की रिपोर्ट तथा राजपत्र में विज्ञापन ग्राम जनता के प्रचार हेतु प्रकाशित करने के लिए रु० 60/- रु० के भारतीय पोस्टल आर्डर प्रस्तुत कर रखे हैं।

अतः इस अदालती इस्तहार द्वारा सर्वसाधारण को सूचित किया जाता है कि यदि किसी को भी उक्त आवेदक के बेटे का नाम व जन्म तिथि उनकी ग्राम पंचायत ब्योमिया के ग्रामलेख में दर्ज करने में कोई आपत्ति हो तो वह अपना आपत्तिनामा दिनांक 1-4-2000 तक या उन्हे पूर्व इस अदालत में हाजिर होकर प्रस्तुत कर सकना है अन्यथा सम्बन्धित ग्राम पंचायत को नाम व जन्म तिथि

उनकी पंचायत के अभिलेख में दर्ज करने के आदेश पारित कर दिए जाएंगे।

आज दिनांक 1-3-2000 को मेरे हस्ताक्षर व मोहर अदालत सहित जारी हुआ।

मोहर।

डी० डी० शर्मा,
उप-मण्डल दण्डाधिकारी, ग्रामीण,
तहसील व जिला शिमला,
हिमाचल प्रदेश।

ब अदालत श्री डी० डी० शर्मा, उप-मण्डल दण्डाधिकारी (ग्रामीण)
शिमला, जिला शिमला, हिमाचल प्रदेश

श्री इन्द्र सिंह सुपुत्र श्री देविन्द्र सिंह, निवासी ग्राम शकरोड़ी,
परगना बड़ावल, तहसील मुन्नो, जिला शिमला हिमाचल प्रदेश।

बनाम

ग्राम जनता

प्रार्थना-पत्र जेर धारा 13 (3) जन्म एवं मृत्यु पंजीकरण अधि-
नियम, 1969 बावत नाम व जन्म तिथि पंचायत अभिलेख में
दर्ज करने बारे।

श्री इन्द्र सिंह ने इस अदालत में एक आवेदन पत्र इस आशय
के साथ गुजारा है कि उनके बेटे श्री सुरेन्द्र सिंह का नाम व जन्म
तिथि 1-3-1995 उनकी ग्राम पंचायत शकरोड़ी के अभिलेख में दर्ज
नहीं कर रही है। वह उसका नाम व जन्म तिथि ग्राम पंचायत शकरोड़ी में
दर्ज करने हेतु शपथ पत्र व पटवारी हल्का की रिपोर्ट तथा राजपत्र
में विज्ञापन ग्राम जनता के प्रचार हेतु प्रकाशित करने के लिए रु०
60/- रु० के भारतीय पोस्टल ऑर्डर प्रस्तुत कर रहे हैं।

अतः इस अदालती इशतहार द्वारा सर्व-साधारण को सूचित किया
जाता है कि यदि किसी को भी उक्त आवेदक के बेटे का नाम व
जन्म तिथि उनकी ग्राम पंचायत शकरोड़ी के अभिलेख में दर्ज करने
में कोई आपत्ति हो तो वह अपना आपत्तिनामा दिनांक 1-4-2000
तक या उससे पूर्व इस अदालत में हाजिर होकर प्रस्तुत कर सकता
है अन्यथा मंचिव सम्बन्धित ग्राम पंचायत का नाम व जन्म तिथि
उनकी पंचायत के अभिलेख में दर्ज करने के आदेश पारित कर दिये
जायेंगे।

आज दिनांक 1-3-2000 को मेरे हस्ताक्षर व मोहर अदालत
में जारी हुआ।

मोहर।

डी० डी० शर्मा,
उप-मण्डल दण्डाधिकारी (ग्रा०),
जिला शिमला,
हिमाचल प्रदेश।

इशतहार

ब अदालत उप-मण्डल दण्डाधिकारी, उप-मण्डल कल्पा स्थित रिकांग-
पिथो, जिला किन्नौर, हिमाचल प्रदेश

बनाम

ग्राम जनता

दरखास्त जेर धारा 13 (3) जन्म व मृत्यु पंजीकरण
अधिनियम, 1969.

श्रीमती अनीता नेगी पुत्री महावीर नेगी, निवासी गांव सांगला,
तहसील सांगला, जिला किन्नौर (हि० प्र०) ने इस अदालत में
दरखास्त प्रस्तुत किया है कि उनके परिवार के निम्नलिखित सदस्यों
का नाम व जन्म तिथि ग्राम पंचायत सांगला के अभिलेख में दर्ज
नहीं है, अतः इनके नाम व जन्म तिथि पंजीकरण हेतु सम्बन्धित
पंचायत को आदेश जारी करने की कृपा करें।

क्रमांक	नाम	जन्म तिथि
1	आशी पुत्री महावीर नेगी	6-1-1997

अतः इस इशतहार द्वारा सर्व साधारण को सूचित किया जाता
है कि यदि किसी भी व्यक्ति को उपरोक्त नाम व जन्म तिथि
पंजीकरण हेतु कोई उजर या एतराज हो तो वह दिनांक 2-4-2000
को सुबह 10.00 बजे असातन या वकालतन अदालत
हजा में हाजिर आ कर प्रस्तुत करें वरना एक तरफा कार्यवाही अमल में
लाई जा कर उपरोक्त व्यक्तियों के नाम पंचायत अभिलेख में दर्ज
करने का आदेश दे दिए जाएंगे।

आज दिनांक 2-3-2000 को हमारे हस्ताक्षर व मोहर अदालत
में जारी हुआ।

मोहर।

हस्ताक्षरित/-

उप-मण्डल दण्डाधिकारी,
उप-मण्डल कल्पा स्थित रिकांग पिथो,
जिला किन्नौर (हि० प्र०)।

इशतहार

ब अदालत उप-मण्डल दण्डाधिकारी, उप-मण्डल कल्पा स्थित रिकांग-
पिथो, जिला किन्नौर (हि० प्र०)

बनाम

ग्राम जनता

दरखास्त जेर धारा 13 (3) जन्म व मृत्यु पंजीकरण
अधिनियम, 1969.

श्री चन्द्र देव पुत्र श्री कल्याण सिंह, निवासी गांव सांगला,
तहसील सांगला, जिला किन्नौर, हिमाचल प्रदेश ने इस अदालत में
दरखास्त प्रस्तुत किया है कि उनके परिवार के निम्नलिखित सदस्यों
का नाम व जन्म तिथि ग्राम पंचायत सांगला के अभिलेख में दर्ज
नहीं है, अतः इनके नाम व जन्म तिथि पंजीकरण हेतु सम्बन्धित
पंचायत को आदेश जारी करने की कृपा करें।

क्रमांक	नाम	जन्म तिथि
1	विक्रान्त पुत्र चन्द्र देव	1-8-1989

अतः इस इशतहार द्वारा सर्व-साधारण को सूचित किया जाता
है कि यदि किसी भी व्यक्ति को उपरोक्त नाम व जन्म तिथि
पंजीकरण हेतु कोई उजर व एतराज हो तो वह दिनांक 2-4-2000
को सुबह 10.00 बजे असातन या वकालतन अदालत हजा में
हाजिर आकर प्रस्तुत करें वरना एक तरफा कार्यवाही अमल में लाई
जाकर उपरोक्त व्यक्तियों के नाम पंचायत अभिलेख में दर्ज करने
के आदेश कर दिए जाएंगे।

आज दिनांक 2-3-2000 को हमारे हस्ताक्षर व मोहर अदालत
में जारी हुआ।

मोहर।

हस्ताक्षरित/-

उप-मण्डल दण्डाधिकारी,
उप-मण्डल कल्पा स्थित रिकांग पिथो,
जिला किन्नौर, हिमाचल प्रदेश।

इशतहार

कार्यालय उप-मण्डल दण्डाधिकारी, उप-मण्डल कल्पा स्थित रिकांग पिथो
जिला किन्नौर, हिमाचल प्रदेश

किशोर कुमार

बनाम

ग्राम जनता

दरखास्त जेर धारा 13 (3) जन्म एवं मृत्यु पंजीकरण
अधिनियम, 1969.

श्री किशोर कुमार पुत्र श्री छेरिंग नन्द, निवासी गांव तेलंगी, तहसील
कल्पा, जिला किन्नौर, हिमाचल प्रदेश ने इस अदालत में दरखास्त
प्रस्तुत की है कि उनके परिवार के निम्नलिखित सदस्यों का नाम
व जन्म तिथि ग्राम पंचायत सवांगी के अभिलेख में दर्ज नहीं है, अतः
इसका नाम व जन्म तिथि पंजीकरण हेतु सम्बन्धित पंचायत को आदेश
जारी करने की कृपा करें :—

क्रमांक	नाम	जन्म तिथि
1.	सौरभ चन्द्रकी पुत्र किशोर कुमार	06-07-1996

अतः इस इशतहार द्वारा सर्वसाधारण को सूचित किया जाता है कि
यदि किसी भी व्यक्ति को उपरोक्त नाम व जन्म तिथि पंजीकरण
हेतु कोई उजर या एतराज हो तो वह दिनांक 2-4-2000 को
सुबह 10.00 बजे असातन या वकालतन अदालत हजा में हाजिर
आकर प्रस्तुत करें वरना एक तरफा कार्यवाही अमल में लाई जा
कर उपरोक्त बच्चे का नाम पंचायत अभिलेख में दर्ज करने के
आदेश दे दिए जाएंगे।

आज दिनांक 2-3-2000 को हमारे हस्ताक्षर व मोहर अदालत
में जारी हुआ।

मोहर।

हस्ताक्षरित/-

उप-मण्डल दण्डाधिकारी,
उप-मण्डल कल्पा स्थित रिकांग पिथो,
जिला किन्नौर, हिमाचल प्रदेश।

ब अदालत श्री राहुल आनन्द, भा0 प्र0 से0, उप-मण्डल दण्डाधिकारी, पांवटा साहिब, जिला सिरमौर, हिमाचल प्रदेश

श्री रोशन लाल पुत्र श्री भन्ता राम, निवासी अमरगढ़, तहसील पांवटा, जिला सिरमौर (हि0 प्र0)।

बनाम

ग्राम जनता

प्रार्थना-पत्र जेर धारा 13(3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

श्री रोशन लाल पुत्र श्री भन्ता राम, निवासी अमरगढ़ ने इस अदालत में एक प्रार्थना-पत्र गुजारा है कि उसकी लड़कियों का नाम मलिनद्र और व बीना देवी का जन्म दिनांक 3-7-1993 व 7-4-1994 को हुआ था परन्तु अज्ञानतावश वह उनकी जन्म तिथियां ग्राम पंचायत पुरुवाला नगरपालिका के रिकार्ड में दर्ज नहीं करा सका है।

अतः सर्व साधारण को इस इशतहार के माफत सूचित किया जाता है कि इस बारे किसी को कोई उजर व एतराज हो तो वह दिनांक 3-4-2000 को प्रातः 10 बजे अदालत हुआ स्थित पांवटा में अमानतन या बकालतन हाजिर आकर उजर दर्ज करा सकता है निर्धारित अवधि के पश्चात् कोई आपत्ति प्राप्त न होने की सूत में प्रार्थना-पत्र श्री रोशन लाल पर नियमानुसार कार्यवाही की जाएगी।

आज दिनांक 3-3-2000 को मेरे हस्ताक्षर व कार्यालय मोहर अदालत द्वारा जारी किया गया।

राहुल आनन्द, (भा0 प्र0 से0),
उप-मण्डल दण्डाधिकारी, पांवटा साहिब,
जिला सिरमौर, हिमाचल प्रदेश।

ब अदालत श्री राहुल आनन्द, भा0 प्र0 से0 उप-मण्डल दण्डाधिकारी, पांवटा साहिब, जिला सिरमौर, हिमाचल प्रदेश

श्री कल्याण सिंह पुत्र किशन सिंह, निवासी भजौन, तहसील पांवटा, जिला सिरमौर, हि0 प्र0।

बनाम

ग्राम जनता

प्रार्थना-पत्र जेर धारा 13 (3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

श्री कल्याण सिंह पुत्र किशन सिंह, निवासी भजौन ने इस अदालत में प्रार्थना पत्र गुजारा है कि उसका स्वयं नाम कल्याण सिंह का जन्म दिनांक 1-2-1956 को हुआ था परन्तु अज्ञानतावश वह उसका जन्म तिथि ग्राम पंचायत कोडवा के रिकार्ड में 1946 दर्ज की गई है जो गलत है।

अतः सर्व साधारण को इस इशतहार के माफत सूचित किया जाता है कि इस बारे किसी को कोई उजर या एतराज हो तो वह दिनांक 31-3-2000 को प्रातः 10.00 बजे अदालत हुआ स्थित पांवटा में अमानतन या बकालतन हाजिर आकर दर्ज करा सकता है निर्धारित अवधि के पश्चात् कोई आपत्ति प्राप्त न होने की सूत में प्रार्थना पत्र श्री कल्याण सिंह पर नियमानुसार कार्यवाही की जाएगी।

आज दिनांक 1-3-2000 को मेरे हस्ताक्षर व कार्यालय मोहर अदालत द्वारा जारी किया गया।

राहुल आनन्द, भा0 प्र0 से0,
उप-मण्डल दण्डाधिकारी,
पांवटा साहिब, जिला सिरमौर,
हिमाचल प्रदेश।

ब अदालत श्री राहुल आनन्द, भा0 प्र0 से0 उप-मण्डल दण्डाधिकारी, पांवटा साहिब, जिला सिरमौर, हिमाचल प्रदेश

श्री दलीप सिंह पुत्र मान सिंह, निवासी सतौन, तहसील पांवटा, जिला सिरमौर, हिमाचल प्रदेश।

बनाम

ग्राम जनता

प्रार्थना पत्र-जेर धारा 13(3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

श्री दलीप सिंह पुत्र मान सिंह, निवासी सतौन, तहसील पांवटा साहिब ने इस अदालत में एक प्रार्थना-पत्र गुजारा है कि उसकी लड़की नाम कुंतो का जन्म दिनांक 12-8-1986 को हुआ था परन्तु अज्ञानतावश वह उसकी जन्म तिथि ग्राम पंचायत सतौन के रिकार्ड में 28-7-1989 दर्ज की गई है जो गलत है।

अतः सर्वसाधारण को इस इशतहार के माफत सूचित किया जाता है कि इस बारे किसी को कोई उजर/एतराज हो तो वह दिनांक 31-3-2000 को प्रातः 10.00 बजे अदालत हुआ स्थित पांवटा में अमानतन या बकालतन हाजिर आकर दर्ज करा सकता है निर्धारित अवधि के पश्चात् कोई आपत्ति प्राप्त न होने की सूत में प्रार्थना पत्र श्री दलीप सिंह पर नियमानुसार कार्यवाही की जाएगी।

आज दिनांक 1-3-2000 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी किया गया।

मोहर।

राहुल आनन्द, भा0 प्र0 से0,
उप-मण्डल दण्डाधिकारी,
पांवटा साहिब, जिला सिरमौर,
हिमाचल प्रदेश।

ब अदालत श्री राहुल आनन्द, भा0 प्र0 से0, उप-मण्डल दण्डाधिकारी, पांवटा साहिब, जिला सिरमौर, हिमाचल प्रदेश

श्री दलीप सिंह पुत्र मान सिंह, निवासी सतौन, तहसील पांवटा, जिला सिरमौर, हिमाचल प्रदेश।

बनाम

ग्राम जनता

प्रार्थना-पत्र जेर धारा 13(3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

श्री दलीप सिंह पुत्र मान सिंह, निवासी सतौन ने इस अदालत में प्रार्थना-पत्र गुजारा है कि उसके लड़के का नाम विमल का जन्म दिनांक 6-2-1981 को हुआ था परन्तु अज्ञानतावश वह उसकी जन्म तिथि ग्राम पंचायत सतौन के रिकार्ड में 1972 दर्ज की गई है जो कि गलत है।

अतः सर्व साधारण को इस इशतहार के माफत सूचित किया जाता है कि इस बारे किसी को कोई उजर/एतराज हो तो वह दिनांक 31-3-2000 को प्रातः 10.00 बजे अदालत हुआ स्थित पांवटा में अमानतन या बकालतन हाजिर आकर दर्ज करा सकता है निर्धारित अवधि के पश्चात् कोई आपत्ति प्राप्त न होने की सूत में प्रार्थना-पत्र श्री दलीप सिंह पर नियमानुसार कार्यवाही कर दी जाएगी।

आज दिनांक 1-3-2000 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

राहुल आनन्द, भा0 प्र0 से0,
उप-मण्डल दण्डाधिकारी,
पांवटा साहिब, जिला सिरमौर (हि0 प्र0)।

ब अदालत श्री राहुल आनन्द, भा0 प्र0 से0, उप-मण्डल दण्डाधिकारी, पांवटा साहिब, जिला सिरमौर, हिमाचल प्रदेश

श्री प्रकाश चन्द पुत्र दर्शन, निवासी कोटड़ी, तहसील पांवटा, जिला सिरमौर, हिमाचल प्रदेश।

बनाम

ग्राम जनता

प्रार्थना-पत्र जेर धारा 13 (3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

श्री प्रकाश चन्द पुत्र दर्शन, निवासी कोटड़ी ने इस अदालत में एक प्रार्थना-पत्र गुजारा है कि उसका स्वयं का नाम प्रकाश चन्द का जन्म दिनांक 25-1-1962 को हुआ था परन्तु अज्ञानतावश वह उसकी जन्म तिथि ग्राम पंचायत कोटड़ी व्यास के रिकार्ड में 31 वर्ष दर्ज की गई है जो गलत है।

अतः सर्वसाधारण को इस इशतहार के माफत सूचित किया जाता है कि इस बारे यदि किसी को कोई उजर व एतराज हो तो वह दिनांक 3-4-2000 को प्रातः 10.00 बजे अदालत हुआ स्थित पांवटा में अमानतन या बकालतन हाजिर आकर दर्ज करा सकता है निर्धारित अवधि के पश्चात् कोई आपत्ति प्राप्त न होने की सूत में प्रार्थना-पत्र श्री प्रकाश चन्द पर नियमानुसार कार्यवाही की जाएगी।

आज दिनांक 3-3-2000 को मेरे हस्ताक्षर व कार्यालय मोहर अदालत द्वारा जारी किया गया।

मोहर।

राहुल आनन्द, भा0 प्र0 से0,
उप-मण्डल दण्डाधिकारी,
पांवटा साहिब, जिला सिरमौर,
हिमाचल प्रदेश।

अज्ञाततन्त्र वड् अपनी जन्म तिथि ग्राम पंचायत भरोग बनेडी के रिकार्ड में 1965 दर्ज की गई है जो कि गलत है ।

अतः सर्वसाधारण को इस इवेंटहार के मार्फत सूचित किया जाता है कि इस बारे किसी को कोई उजर या एतराज हो तो वह दिनांक 31-3-2000 को प्रातः 10.00 बजे अदालत हज़ा स्थित पांवटा में असालतन या वकालतन हाज़िर आकर दर्ज करा सकता है निर्धारित अवधि के पश्चात् कोई आपत्ति प्राप्त न होने की सूचना में प्रायः-पल श्रीमती धनमती पर नियमानुसार कार्यवाही की जाएगी।

आज दिनांक 7-2-2000 को मेरे हस्ताक्षर व मोहर प्रदत्त
से जारी किया गया।

मोहर ।

राहुल आनन्द, भा० प्र० से०,
उप-मण्डल दण्डाधिकारी,
पांचढा साहिब, जिला सिरमौर,
हिमाचल प्रदेश।

ब अदालत श्री राहुल आनन्द, भा० प्र० से०, उप-मण्डल दण्डाधिकारी,
पांवटा साहिब, जिला सिरमौर, हिमाचल प्रदेश

श्री मोहन सिंह पुत्र श्री साधू राम, निवासी गवाना, तहसील पाँवटा, जिला सिरमौर, हिमाचल प्रदेश ।

वनाम
म जन्ता

प्राथेना-पत्र जेर द्वारा 13 (3) जन्म एवं मृत्यु पंजीकरण अधि-
नियम, 1969.

श्री मोहन सिंह पुत्र श्री साधू राम, निवासी गवाना, तहसील पाँढरा ने इस अदालत में एक प्रार्थना-पत्र गुजारा है कि उसका (स्वयं) का जन्म दिनांक 16-12-1959 को हुश्रा था परन्तु अज्ञातभाव वह अपनी जन्म तिथि ग्राम पंचायत भनत हल्हाडी के रिकार्ड में 1959 दर्ज की गई है जो गलत है।

अतः सर्वसाधारण को इस इस इशतहार के माफ़त सूचित किया जाता है कि इस बारे किसी को कोई उज्जर या एतराज हो तो वह दिनांक 31-3-2000 को प्रातः 10:00 बजे अदालत हजा स्थित पांवडा में अशालतन या वकालतन हाजिर आकर दर्ज करा सकता है निर्धारित अवधि के पश्चात् कोई आपत्ति प्राप्त न होने की सूचना पर प्रार्थना-पत्र श्री मोहन सिंह पर नियमानुसार कार्यवाही की जाएगी ।

सूत्र दिनांक 1-3-2000 को मेरे हस्ताक्षर व मोहर अदालत से जारी किया गया।

मोहर ।

राहुल आनन्द, भा 0 प्र 0 स 0,
उप-मण्डल दण्डाधिकारी,
पांवटा, साहिब, जिला सिरमोर,
हिमाचल प्रदेश ।

ब अदालत श्री राहुल ग्रानन्द, भा० प्र० मे०, उप-मण्डल दण्डाधिकारी,
पावटा साहिब, जिला सिरमौर, हिमाचल प्रदेश

श्रीमती शीला देवी पुत्री श्री रत्नी राम, पत्नी हरनाम सिंह, तहसील
कमरऊ, जिला सिरमौर, हिमाचल प्रदेश ।

वनमि
म जनता

राहुल आनन्द, भा० प्र० से०.
उप-मण्डल दण्डाधिकारी,
पाँवटा साहिब, जिला सिरमौर,
हिमाचल प्रदेश ।

प्रायःनामत्र जेर घारा 13 (3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

श्रीमती शोभा देवी पत्नी हर्नाम सिंह, निवासी कमरऊ ने इस अदालत में प्रार्थना-पत्र गुजारा है कि उसकी लड़की सविता देवी का जन्म दिनांक 15-1-1995 को हुआ था परन्तु अमानता वगैरे वह उनकी जन्म तिथि ग्राम पंचायत कमरऊ के रिकार्ड में दर्ज नहीं करा सकी है।

अतः सर्वसाधारण को इस इस्तेहार को मार्फत सूचित किया जा रहा है कि यदि किसी को कोई एतराज हो तो वह दिनांक 31-3-2000 को 10.00 बजे अदालत हवा स्थित पावटा में अशालतन या वकालतन हाज़िर आकर दर्ज कर सकत है। निर्धारित अवधि के पश्चात् कोई आपत्ति प्राप्त न होने की सूत्र में प्रार्थना-पत्र श्रीमती शोला देवी पर नियमानुसार कार्यवाही की जाएगी।

श्रीमती धनमंजी बेवा बाबू राम, निवासी भरोग बनेड़ी, तहसील पांचवटा ने इस अदालत में एक प्रार्थना-पत्र गुजारा है कि उसका (स्वयं) का जन्म दिनांक 1-12-1965 को हुआ था परन्तु

विचार कि
पद के भती
पण्त्
की अपक्षा
अभाव हो
विचार के

आज दिनांक 29-1-2000 को मेरे हस्ताक्षर व कार्यालय मोहर अदालत द्वारा जारी किया गया।

मोहर।

राहुल आनन्द, भा0 प्र0 से0,
उप-मण्डल दण्डाधिकारी,
पांवटा साहिब, जिला सिरमौर, हिमाचल प्रदेश।

ब अदालत श्री राहुल आनन्द, भा0 प्र0 से0, उप-मण्डल दण्डाधिकारी,
पांवटा साहिब, जिला सिरमौर, हिमाचल प्रदेश

श्री सुशील कुमार पुत्र श्री राजेन्द्र लाल, निवासी पांवटा, जिला सिरमौर, हिमाचल प्रदेश।

बनाम

ग्राम जनता

प्रार्थना-पत्र जेर धारा 13 (3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

श्री सुशील कुमार पुत्र श्री राजेन्द्र लाल निवासी पांवटा ने इस अदालत में एक प्रार्थना पत्र गुजारा है कि उसके लड़के सिद्धार्थ का जन्म दिनांक 5-4-1993 को हुआ था परन्तु अज्ञानता वश वह उसकी जन्म तिथि नगरपालिका परिषद् पांवटा के रिकार्ड में दर्ज नहीं करा सका है।

अतः सर्वसाधारण को इस इशतहार के मार्फत सूचित किया जाता है कि इस बारे किसी को कोई उजर एतराज हो तो वह दिनांक 31-3-2000 को प्रातः 10.00 बजे अदालत हुआ स्थित पांवटा में अनालतन या बकालतन हाजिर आकर दर्ज करा सकता है। निर्धारित अवधि के पश्चात् कोई आपति प्राप्त न होने की सूचना में प्रार्थना-पत्र श्री सुशील कुमार पर नियमानुसार कार्यवाही की जाएगी।

आज दिनांक 7-2-2000 को मेरे हस्ताक्षर व कार्यालय मोहर अदालत द्वारा जारी किया गया।

मोहर।

राहुल आनन्द, भा0 प्र0 से0,
उप-मण्डल दण्डाधिकारी,
पांवटा साहिब, जिला सिरमौर, हिमाचल प्रदेश।

ब अदालत श्री राहुल आनन्द, भा0 प्र0 से0, उप-मण्डल दण्डाधिकारी,
पांवटा साहिब, जिला सिरमौर, हिमाचल प्रदेश

श्री राकेश कुमार पुत्र श्री देव राज, निवासी नखेता, तहसील पांवटा, जिला सिरमौर, हिमाचल प्रदेश।

बनाम

ग्राम जनता

प्रार्थना-पत्र जेर धारा 13(3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

श्री राकेश कुमार पुत्र श्री देव राज, निवासी नखेता, तहसील पांवटा ने इस अदालत में प्रार्थना-पत्र गुजारा है कि उसकी लड़कियाँ भारती एवं ऋति एवं पत्नी अंजू का जन्म दिनांक 5-3-98, 6-8-99 एवं 25-6-1976 को हुआ था परन्तु अज्ञानता वश वह उनकी जन्म तिथियाँ ग्राम पंचायत नखेता के रिकार्ड में दर्ज नहीं करा सका है।

अतः सर्वसाधारण को इस इशतहार के मार्फत सूचित किया जाता है कि इस बारे किसी को कोई उजर एतराज हो तो वह दिनांक 31-3-2000 को प्रातः 10.00 बजे अदालत हुआ स्थित पांवटा में अनालतन या बकालतन हाजिर आकर दर्ज करा सकता निर्धारित अवधि के पश्चात् कोई आपति प्राप्त न होने की सूचना में प्रार्थना-पत्र श्री राकेश कुमार पर नियमानुसार कार्यवाही की जाएगी।

आज दिनांक 29-1-2000 को मेरे हस्ताक्षर व कार्यालय मोहर अदालत द्वारा जारी किया गया।

मोहर।

राहुल आनन्द (भा0 प्र0 से0),
उप-मण्डल दण्डाधिकारी, पांवटा साहिब,
जिला सिरमौर, हिमाचल प्रदेश।

ब अदालत श्री राहुल आनन्द, भा0 प्र0 से0, उप-मण्डल दण्डाधिकारी
पांवटा साहिब, जिला सिरमौर, हिमाचल प्रदेश

श्री राजीव कुमार पुत्र श्री रती राम, निवासी कमरऊ, जिला सिरमौर, हिमाचल प्रदेश।

बनाम

ग्राम जनता

प्रार्थना-पत्र जेर धारा 14-15 जन्म एवं मृत्यु पंजीकरण नियम, 1969.

श्री राजीव कुमार पुत्र श्री रती राम, निवासी कमरऊ ने इस अदालत में एक प्रार्थना-पत्र गुजारा है कि उसका नाम राजीव कुमार है परन्तु पंचायत रिकार्ड ग्राम पंचायत कमरऊ में उसका नाम रंगी लाल किया गया है। जोकि गलत है।

अतः सर्वसाधारण को इस इशतहार के मार्फत सूचित किया जाता है कि यदि इस बारे किसी व्यक्ति को कोई एतराज हो तो वह दिनांक 31-3-2000 को प्रातः 10.00 बजे अदालत हुआ स्थित पांवटा में अनालतन या बकालतन हाजिर आकर अपनी स्थिति/ एतराज प्रस्तुत कर सकता है निर्धारित तिथि पर कोई एतराज प्राप्त न होने की सूचना में प्रार्थना-पत्र श्री राजीव कुमार पर नियमानुसार कार्यवाही कर दी जाएगी।

आज दिनांक 1-3-2000 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी किया गया।

मोहर।

राहुल आनन्द, भा0 प्र0 से0,
उप-मण्डल दण्डाधिकारी,
पांवटा साहिब, जिला सिरमौर, हिमाचल प्रदेश।

ब अदालत श्री एल0 आर0 ब्रामटा, उप-मण्डल दण्डाधिकारी, राजगढ़
जिला सिरमौर, हिमाचल प्रदेश

श्रीमती गंगा देवी पत्नी श्री शिव सिंह निवासी हलोनी पुल तहसील राजगढ़, जिला सिरमौर, (हि0 प्र0)।

बनाम

ग्राम जनता

दरखास्त जेर धारा 13(3) जन्म/मृत्यु पंजीकरण अधिनियम, 1969.

श्रीमती गंगा देवी पत्नी श्री शिव सिंह निवासी हलोनी पुल तहसील राजगढ़, जिला सिरमौर, हिमाचल प्रदेश न इस कार्यालय में गुजारिश की है कि उनके पुत्र अरुण का जन्म तिथि 8-10-1995 को हुआ है जिसका नाम ग्राम पंचायत मुईग, तहसील राजगढ़ में दर्ज नहीं हुआ है।

अतः इस अदालती इशतहार द्वारा सर्व-साधारण जनता को सूचित किया जाता है कि यदि उक्त नाम व तिथि पंचायत रिकार्ड में दर्ज करने बारे किसी को कोई एतराज हो तो वह तिथि 5-4-2000 को या उसके पूर्व हाजिर होकर अपना एतराज पेश कर सकता है अन्यथा सम्बन्धित पंचायत मंचिव को उक्त नाम व जन्म तिथि दर्ज करने बारा आदेश जारी कर दिए जायेंगे।

मोहर।

एल0 आर0 ब्रामटा,
उप-मण्डल दण्डाधिकारी,
राजगढ़, जिला सिरमौर,
हिमाचल प्रदेश।

In the Court of Asstt. Collector 2nd Class, Sub-Tehsil
Kamrau, District Sirmour, Himachal Pradesh
Chandno Devi Vs. Chandel Sen Giri.
Case : Partition

Whereas in the above noted case it has been proved to the satisfaction of this court that defendant Shri Mahavir Singh s/o Shri Ranjeet Singh, r/o Jandhinya, Sub-Tehsil Kamrau, District Sirmour (H. P.) cannot served in an ordinary way in the said case. Hence, this Proclamation is hereby issued against him to appear in this court on or before 3-4-2000 personally or through counsel. Failing which *ex parte* proceeding will be taken against him.

Given under my hand and seal of this court 29-2-2000.

Seal.

Sd/-
Asstt. Collector 2nd Class,
Sub-Tehsil Kamrau,
District Sirmour (H. P.)

ब अदालत नायब तहसीलदार एवं कार्यकारी दण्डाधिकारी, ऊना,
तहसील व जिला ऊना, हिमाचल प्रदेश

मुकद्दमा : जन्म तिथि प्रमाण पत्र :

सतोष देवी

बनाम

ग्राम जनता कोटला कलां

दरखास्त जेर धारा 13(3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

नोटिस बनाम ग्राम जनता ।

श्रीमती संतोष कुमारी पत्नी श्री नरेश कुमार, निवासी गांव कोटला कला, तहसील व जिला ऊना ने इस न्यायालय में दरखास्त दी है कि उसके पुत्र मनीश कुमार का नाम पंचायत रजिस्टर में गलती से दर्ज न करवाया जा सका है और अब दर्ज करवाया जावे । इसके पुत्र की जन्म तिथि 31-12-1998 है तथा बच्चे का जन्म गांव कोटला कला में हुआ है ।

अतः इस नोटिस के माध्यम से समस्त जनता तथा सम्बन्धित रिश्तेदारों को सूचित किया जाता है कि यदि किसी को उसका नाम दर्ज करवाने बारे कोई उजर/आपत्ति हो तो वह दिनांक 6-4-2000 को प्रातः दस बजे स्वयं अथवा असालतन या वकालतन इस अदालत में हाजिर आ कर पेश करें अन्यथा एकतरफा कार्यवाही अमल में लाई जा कर प्रमाण पत्र जारी कर दिए जाएंगे ।

आज दिनांक 7-3-2000 को हमारे हस्ताक्षर व मोहर अदालत से जारी हुआ ।

मोहर ।

हस्ताक्षरित/-
नायब तहसीलदार एवं कार्यकारी दण्डाधिकारी,
ऊना, तहसील व जिला ऊना,
हिमाचल प्रदेश ।

व अदालत नायब तहसीलदार एवं कार्यकारी दण्डाधिकारी, ऊना,
तहसील व जिला ऊना, हिमाचल प्रदेश

मुकद्दमा : जन्म तिथि प्रमाण पत्र ।

विनोद कुमार बनाम ग्राम जनता टक्का ।

दरखास्त जेर धारा 13(3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

नोटिस बनाम ग्राम जनता ।

श्री विनोद कुमार पुत्र चरंजी लाल, निवासी टक्का, तहसील व जिला ऊना ने इस न्यायालय में दरखास्त दी है कि उसकी पुत्री अम्मा देवी का नाम पंचायत रजिस्टर में गलती से दर्ज न करवाया जा सका है और अब दर्ज किया जावे । इसकी पुत्री की जन्म तिथि 11-4-1995 है तथा बच्चे का जन्म गांव टक्का में हुआ है ।

अतः इस नोटिस के माध्यम से समस्त जनता तथा सम्बन्धित रिश्तेदारों को सूचित किया जाता है कि यदि किसी को उसका नाम दर्ज करवाने बारे कोई उजर/आपत्ति हो तो वह दिनांक 6-4-2000 को प्रातः दस बजे स्वयं अथवा असालतन या वकालतन इस अदालत में हाजिर आ कर पेश कर पेश करें अन्यथा एकतरफा कार्यवाही अमल में लाई जा कर प्रमाण पत्र जारी कर दिए जाएंगे ।

आज दिनांक 1-3-2000 को हमारे हस्ताक्षर व मोहर अदालत से जारी हुआ ।

मोहर ।

हस्ताक्षरित/-
नायब तहसीलदार एवं
कार्यकारी दण्डाधिकारी, ऊना,
तहसील व जिला ऊना (हि0 प्र0) ।

व अदालत श्री एस0 के0 पराशर, तहसीलदार एवं कार्यकारी दण्डाधिकारी, ऊना, तहसील व जिला ऊना, हिमाचल प्रदेश

मुकद्दमा : जन्म तिथि प्रमाण-पत्र ।

रतन चन्द बनाम ग्राम जनता ।

दरखास्त जेर धारा 13(3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

नोटिस बनाम ग्राम जनता ।

श्री रतन चन्द पुत्र श्री हाको राम, निवासी गांव टक्का, तहसील व जिला ऊना ने इस न्यायालय में दरखास्त दी है कि उसके पोत्रे साहिल चौधरी पुत्र श्री यशपाल का जन्म पंचायत रजिस्टर में गलती से दर्ज न करवाया जा सका है और अब दर्ज करवाया जावे । इसके पोत्रे की जन्म तिथि 14-8-96 है तथा बच्चे का जन्म स्थान गांव टक्का है ।

अतः इस नोटिस के माध्यम से समस्त जनता तथा सम्बन्धित रिश्तेदारों को सूचित किया जाता है कि यदि किसी को उसका नाम दर्ज करवाने बारे कोई उजर/आपत्ति हो तो वह दिनांक 6-4-2000 को प्रातः दस बजे स्वयं अथवा असालतन या वकालतन इस अदालत में हाजिर आ कर पेश करें अन्यथा एक तरफा कार्यवाही अमल में लाई जा कर प्रमाण पत्र जारी करने के निर्देश जारी कर दिए जाएंगे ।

आज दिनांक 3-3-2000 को हमारे हस्ताक्षर व मोहर अदालत से जारी हुआ ।

मोहर ।

एस0 के0 पराशर,
तहसीलदार एवं कार्यकारी दण्डाधिकारी,
ऊना, तहसील व जिला ऊना,
हिमाचल प्रदेश ।

व अदालत श्री एस0 के0 पराशर, तहसीलदार एवं कार्यकारी दण्डाधिकारी, ऊना, तहसील व जिला ऊना (हि0 प्र0)

मुकद्दमा : जन्म तिथि प्रमाण-पत्र ।

जगतार सिंह बनाम ग्राम जनता ।

दरखास्त जेर धारा 13(3) जन्म एवं मृत्यु पंजीकरण अधिनियम 1969.

नोटिस बनाम ग्राम जनता ।

श्री जगतार सिंह बेसी पुत्र प्यारा सिंह बेसी गलूआ ऊना, निवासी गांव ऊना, तहसील व जिला ऊना ने इस न्यायालय में दरखास्त दी है कि उसकी पुत्री गुरजीत कौर बेसी का नाम जन्म पंचायत रजिस्टर में गलती से दर्ज न करवाया जा सका है और अब दर्ज करवाया जावे । इसकी पुत्री का जन्म तिथि 21-2-80 है तथा बच्चे का जन्म स्थान गांव ऊना है ।

अतः इस नोटिस के माध्यम से समस्त जनता तथा सम्बन्धित रिश्तेदारों को सूचित किया जाता है कि यदि किसी को उसका नाम दर्ज करवाने बारे कोई उजर/आपत्ति हो तो वह दिनांक 7-4-2000 को प्रातः दस बजे स्वयं अथवा असालतन या वकालतन इस अदालत में हाजिर आ कर पेश करें अन्यथा एकतरफा कार्यवाही अमल में लाई जा कर प्रमाण-पत्र जारी कर दिए जाएंगे ।

आज दिनांक 3-3-2000 को हमारे हस्ताक्षर व मोहर अदालत से जारी हुआ ।

मोहर ।

एस0 के0 पराशर,
तहसीलदार एवं कार्यकारी दण्डाधिकारी,
ऊना, तहसील व जिला ऊना (हि0 प्र0) ।

नाम परिवर्तन

मैं, जगजीवन राम सुपुत्र जोगिन्द्रपाल वर्मा, निवासी गांव सल्लेवाल, डाकखाना राजपुरा, तहसील नालागढ़, जिला सोलन ने अपना नाम बदल कर राजम वर्मा रख लिया है ।

विचार के
पद के प्रति
: पत्र
की अपेक्षा
अपना दे
विचार के

भाग 6—भारतीय राजपत्र द्वारा वि में से पुनः प्रकाशन

LAW DEPARTMENT

NOTIFICATION

Shimla-171002, the 3rd January, 1985

No. LL R. E (9)/84.—The following Acts recently passed by the Parliament which have already been published in the Gazette of India Extra Ordinary Part-II, are hereby republished in the Himachal Pradesh Rajpatra for the information of the general public:—

Sl. No.	Title	Date of assent	Date of Gazette of India (Extra Ordinary) Part-II Section I in which the Act was published
1	2	3	4
1.	The Employees State Insurance (Amendment) Act, 1984 (No. 45 of 1984)	6-8-1984	7-8-1984
2.	The Punjab Appropriation (No. 2) Act, 1984 (No. 46 of 1984)	10-8-1984	14-8-1984
3.	The Pondicherry Appropriation (No. 2) Act, 1984 (No. 47 of 1984)	10-8-1984	14-8-1984
4.	The Electricity (Supply) (Amendment) Act, 1984 (No. 48 of 1984)	16-8-1984	17-8-1984
5.	The Industrial Disputes (Amendment) Act, 1984 (No. 49 of 1984)	16-8-1984	17-8-1984
6.	The Appropriation (No. 4) Act, 1984 (No. 50 of 1984)	16-8-1984	17-8-1984
7.	The Multi-State Co-operative Societies Act, 1984 (No. 51 of 1984)	18-8-1984	21-8-1984
8.	The Indian Veterinary Council Act, 1984 (No. 52 of 1984)	18-8-1984	21-8-1984
9.	The Estate Duty (Amendment) Act, 1984 (No. 53 of 1984)	23-8-1984	23-8-1984
10.	The Levy Sugar Price Equalisation Fund (Amendment) Act, 1984 (No. 54 of 1984)	23-8-1984	23-8-1984
11.	The Hooghly Docking and Engineering Company Limited (Acquisition and Transfer of Undertakings) Act, 1984 (No. 55 of 1984)	23-8-1984	23-8-1984
12.	The Cinematograph (Amendment) Act, 1984 (Act No. 56 of 1984)	27-8-1984	28-8-1984
13.	The Bengal Immunity Company Ltd. (Acquisition and Transfer of Undertaking) Act, 1984 (No. 57 of 1984)	29-8-1984	31-8-1984
14.	The Constitution (Forty-Seventh Amendment) Act, 1984	26-8-1984	26-8-1984
15.	The Constitution (Forty-Eighth Amendment) Act, 1984	26-8-1984	26-8-1984
16.	The Constitution (Forty-Ninth Amendment) Act, 1984	11-9-1984	11-9-1984
17.	The Constitution (Fiftieth Amendment) Act, 1984	11-9-1984	11-9-1984
18.	The Conservation of Foreign Exchange and Prevention of Smuggling Activities (Amendment) Act, 1984 (No. 58 of 1984)	30-8-1984	31-8-1984
19.	The University Grants Commission (Amendment) Act, 1984 (No. 59 of 1984)	30-8-1984	31-8-1984
20.	The National Security (Second Amendment) Act, 1984 (No. 60 of 1984)	31-8-1984	1-9-1984
21.	The Terrorist Affected Areas (Special Courts) Act, 1984 (No. 61 of 1984)	31-8-1984	1-9-1984
22.	The Industrial Reconstruction Bank of India Act, 1984 (No. 62 of 1984)	11-9-1984	11-9-1984
23.	The Dowry Prohibition (Amendment) Acts, 1984 (No. 63 of 1984)	11-9-1984	11-9-1984
24.	The Banking Laws (Amendment) Act, 1984 (No. 64 of 1984)	11-9-1984	11-9-1984
25.	The Copyright (Amendment) Act, 1984 (No. 65 of 1984)	14-9-1984	14-9-1984
26.	The Family Courts Act, 1984 (No. 66 of 1984)	14-9-1984	14-9-1984
27.	The Taxation Laws (Amendment) Act, 1984 (No. 67 of 1984)	14-9-1984	14-9-1984
28.	The Land Acquisition (Amendment) Act, 1984 (No. 68 of 1984)	24-9-1984	24-9-1984
29.	The Wakf (Amendment) Act, 1984 (No. 69 of 1984)	10-10-1984	10-10-1984

Sd/-

(I. C. MALHOTRA),
Under Secretary (Law).

Assented to on 6th August, 1984.

THE EMPLOYEES' STATE INSURANCE (AMENDMENT) ACT, 1984

(ACT No. 45 OF 1984)

AN

ACT

- further to amend the Employees' State Insurance Act, 1948.

BE it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Employees' State Insurance (Amendment) Act, 1984.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates, may be appointed for different provisions of this Act and for different States or for different parts thereof.

2. *Amendment of section 2.*—In the Employees' State Insurance Act, 1948 (34 of 1948) (hereinafter referred to as the principal Act), in section 2,—

(a) in clause (2),—

- (i) for the words "being not less than twenty-five but not exceeding twenty-seven consecutive weeks or", the words "being not exceeding" shall be substituted;
- (ii) in the proviso, the words "or shorter" shall be omitted;

(b) in clause (5),—

- (i) for the words "being not less than twenty-five but not exceeding twenty-seven consecutive weeks or", the words "being not exceeding" shall be substituted;
- (ii) in the proviso, the words "or shorter" shall be omitted;

(c) in clause (9), in sub-clause (b), for the words "one thousand rupees" at both the places wherever they occur, the words "one thousand and six hundred rupees" shall be substituted;

(d) for clause (23), the following clause shall be substituted, namely:—

"(23) "wage period" in relation to an employee means the period in respect of which wages are ordinarily payable to him whether in terms of the contract of employment, express or implied or otherwise;"

3. *Amendment of section 17.*—In section 17 of the principal Act,—

- (a) in sub-section (1), for the words "one thousand and two hundred rupees", the words "two thousand and two hundred fifty rupees" shall be substituted;
- (b) in sub-sections (3) and (4), for the words and figures "Class I or Class II", the words and letters "Group A and Group B" shall be substituted.

4. *Amendment of section 39.*—In section 39 of the principal Act,—

(a) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) The wage period in relation to an employee shall be the unit in respect of which all contributions shall be payable under this Act;"

(b) in sub-section (4), for the word "week" wherever it occurs, the words "wage period" shall be substituted.

5. *Amendment of section 42.*—In section 42 of the principal Act,—

- (a) in sub-section (1), for the words "are below one rupee and fifty paise", the words "during a wage period are below six rupees" shall be substituted;
- (b) in sub-section (2), for the word "week", the words "wage period" shall be substituted;
- (c) sub-section (3) shall be omitted.

6. *Substitution of new section for section 47.*—For section 47 of the principal Act, the following section shall be substituted, namely:—

"47. *When person eligible for sickness benefits.*—A person shall be qualified to claim sickness benefit for sickness occurring during any benefit period if the contributions in respect of him were payable for not less than half the number of days of the corresponding contribution period."

7. *Amendment of section 50.*—In section 50 of the principal Act, for sub-section (1) and the proviso thereto, the following sub-section shall be substituted, namely:—

"(1) An insured woman shall be qualified to claim maternity benefit for a confinement occurring or expected to occur in a benefit period, if the contributions in respect of her were payable for not less than half the number of days of corresponding contribution period".

8. *Amendment of section 56.*—In section 56 of the principal Act, in sub-section (3), for the word "week", the word "period" shall be substituted.

9. *Amendment of section 78.*—In section 78 of the principal Act, in sub-section (1), for the words and figures "section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898 (5 of 1898)" the words and figures "section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974)" shall be substituted.

10. *Amendment of section 95.*—In section 95 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

"(2A) The power to make rules conferred by this section shall include the power to give retrospective effect, from a date not earlier than the date of commencement of this Act, to the rules or any of them but no retrospective effect shall be given to any rule so as to prejudicially affect the interest of any person other than the Corporation to whom such rule may be applicable."

11. *Amendment of section 96.*—In section 96 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) Every rule made under this section shall be laid as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses or, where such Legislature consists of one House, before that House."

12. *Amendment of section 97.*—In section 97 of the principal Act,—

- (a) in sub-section (1), after the words “The Corporation may,”, the words “with the prior approval of the Central Government and” shall be inserted ;
(b) after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) Every regulation shall, as soon as may be, after it is made by the Corporation, be forwarded to the Central Government and that Government shall cause a copy of the same to be laid before each House of Parliament, while it is in session for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session of the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall there after have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.”.

13. *Amendment of the First Schedule.*—In the First Schedule to the principal Act,—

- (a) for paragraph 1, the following paragraph shall be substituted, namely:—

“1. The amount of contribution for a wage period shall be in respect of—

- (a) employer's contribution, a sum (rounded to the next higher multiple of five paise) equal to five per cent of the wages payable to an employee;
(b) employee's contribution, a sum (rounded to next higher multiple of five paise) equal to two and one-fourth per cent of the wages payable to an employee.”;

- (b) in paragraph 2,—

- (i) in the opening portion, after the words “daily wages”, the words “during a wage period for the purposes of section 42 and sub-paragraph (b) of paragraph 6 of this schedule” shall be inserted;
(ii) in sub-paragraph (b), the word “first” shall be omitted ;
(iii) *Explanation II* shall be omitted;

- (c) after paragraph 2, the following paragraph shall be inserted, namely:—

“2A. The average daily wages during a contribution period in respect of an employee for the purposes of paragraphs 4, 5 and sub-paragraph (a) of paragraph 6 of this Schedule shall be the sum equal to one hundred and fifteen per cent of the aggregate amount of wages payable to him during that period divided by the number of days (including paid holidays and leave days) for which such wages were payable.”;

- (d) for paragraph 3 and the Table thereunder, the following paragraph and the Table shall be substituted, namely :—

- “3. Daily rate of benefit (hereinafter referred to as the “standard benefit rate”) in respect of group of employees specified in the first column of the Table below shall be the amount respectively specified in the corresponding entry in the second column thereof .

TABLE

Group of employees whose average daily wages are		Corresponding daily standard benefit rate	
1		2	
			Rs. P.
1.	Below Rs. 6	..	2.50
2.	Rs. 6 and above but below Rs. 8	..	3.50
3.	Rs. 8 and above but below Rs. 12	..	5.00
4.	Rs. 12 and above but below Rs. 16	..	7.00
5.	Rs. 16 and above but below Rs. 24	..	10.00
6.	Rs. 24 and above but below Rs. 36	..	15.00
7.	Rs. 36 and above	..	20.00.

14. *Substitution of the Third Schedule .*—For the Third Schedule to the principal Act, the following Schedule shall be substituted, namely :—

“THE THIRD SCHEDULE

(See section 52A)

LIST OF OCCUPATIONAL DISEASES

Sl. No.	Occupational disease	Employment
1	2	3
PART A		
1.	Infectious and parasitic diseases contracted in an occupation where there is a particular risk of contamination.	(a) All work involving exposure to health or laboratory work ; (b) All work involving exposure to veterinary work ;

1	2	3
		(c) Work relating to handling animals, animals carcasses, part of such carcasses, or merchandise which may have been contaminated by animals or animal carcasses ;
		(d) Other work carrying a particular risk of contamination ;
2. Diseases caused by work in compressed air.		All work involving exposure to the risk concerned.
3. Diseases caused by lead or its toxic compounds.		All work involving exposure to the risk concerned.
4. Poisoning by nitrous fumes.		All work involving exposure to the risk concerned.
5. Poisoning by organophosphorus compounds.		All work involving exposure to the risk concerned.

PART B

1. Diseases caused by phosphorus or its toxic compounds	All work involving exposure to the risk concerned.
2. Diseases caused by mercury or its toxic compounds	All work involving exposure to the risk concerned.
3. Diseases caused by benzene or its toxic homologues	All work involving exposure to the risk concerned.
4. Diseases caused by nitro and amido toxic derivatives of benzene or its homologues.	All work involving exposure to the risk concerned.
5. Diseases caused by chromium or its toxic compounds	All work involving exposure to the risk concerned.
6. Diseases caused by arsenic or its toxic compounds	All work involving exposure to the risk concerned.
7. Diseases caused by radioactive substances and ionising radiations.	All work involving exposure to the action of radioactive substances or ionising radiations.
8. Primary epithelomatous cancer of the skin caused by tar, pitch, bitumen, mineral oil, anthracene, or the compounds, products residues of these substances.	All work involving exposure to the risk concerned.
9. Diseases caused by the toxic halogen derivatives hydrocarbons (of the aliphatic and aromatic series).	All work involving exposure to the risk concerned.
10. Diseases caused by the carbon disulphide	All work involving exposure to the risk concerned.
11. Occupational cataract due to the infra-red radiations	All work involving exposure to the risk concerned.
12. Diseases caused by a manganese or its toxic compounds	All work involving exposure to the risk concerned.
13. Skin diseases caused by physical, chemical or biological agents not included in other items.	All work involving exposure to the risk concerned.
14. Hearing impairment caused by noise.	All work involving exposure to the risk concerned.
15. Poisoning by dinitrophenol or a homologue or by substituted dinitrophenol or by the salts of such substances.	All work involving exposure to the risk concerned.
16. Diseases caused by beryllium or its toxic compounds.	All work involving exposure to the risk concerned.
17. Diseases caused by cadmium or its toxic compounds	All work involving exposure to the risk concerned.
18. Occupational asthma caused by recognised sensitising agents inherent to the work process.	All work involving exposure to the risk concerned.
19. Diseases caused by fluorine or its toxic compounds	All work involving exposure to the risk concerned.
20. Diseases caused by nitroglycerine or other nitroacid esters	All work involving exposure to the risk concerned.
21. Diseases caused by alcohols and ketones	All work involving exposure to the risk concerned.
22. Diseases caused by asphyxiants : carbon monoxide and its derivatives, hydrogen sulfide.	All work involving exposure to the risk concerned.
23. Lung cancer and mesotheliomas caused by asbestos	All work involving exposure to the risk concerned.
24. Primary neoplasm of the epithelial lining of the urinary bladder or the kidney or the ureter.	All work involving exposure to the risk concerned.

PART C

1. Pneumoconioses caused by sclerogenic mineral dust (silicosis, anthraosilicosis absestosis) and silico-tuberculosis provided that silicosis is an essential factor in causing the resultant incapacity or death.	All work involving exposure to the risk concerned.
2. Bagassosis	All work involving exposure to the risk concerned.
3. Bronchopulmonary diseases caused by cotton, flax hemp and sisal dust (Byssinosis).	All work involving exposure to the risk concerned.
4. Extrinsic allergic alveolitis caused by the inhalation of organic dusts.	All work involving exposure to the risk concerned.
5. Bronchopulmonary diseases caused by hard metals	All work involving exposure to the risk concerned."

15. *Validation.*—The Employees' State Insurance Corporation (General Provident Fund) Rules, 1973 shall be and shall be deemed always to have been as valid and effective as if the provisions of section 95 of the principal Act, as amended by this Act, were in force at the time when those rules were made.

Assented to on 10th August, 1984

THE PUNJAB APPROPRIATION (NO. 2) ACT, 1984

(ACT No. 46 OF 1984)

AN
ACT

to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of the State of Punjab for the services of the financial year, 1984-85.

Be it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows :—

1. *Short title.*—This Act may be called the Punjab Appropriation (No. 2) Act, 1984.

विचार किया
पद के प्रति
परन्तु
की प्रपक्ष
प्रपात्र द्वारा
विचार है

2. *Issue of Rs. 2742,97,93,000 out of the Consolidated Fund of the State of Punjab for the financial year 1984-85.*—From and out of the Consolidated Fund of the State of Punjab there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate [inclusive of the sums specified in column 3 of the Schedule to the Punjab Appropriation (Vote on Account) Act, 1984 (14 of 1984)] to the sum of two thousand seven hundred forty-two crores, ninety-seven lakhs and ninety-three thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1984-85, in respect of the services specified in column 2 of the Schedule.

3. *Appropriation.*—The sums authorised to be paid and applied from and out of the Consolidated Fund of the State of Punjab by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year.

THE SCHEDULE

(See sections 2 and 3)

No. of Vote/ Appropriation 1	Services and purposes 2	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund 3	Total
		Rs.	Rs.	Rs.
1	State Legislature Staff Household and Allowances of the Governor	Revenue 1,10,85,000	1,07,000	1,11,92,000
2	Council of Ministers	Revenue 87,65,000	20,67,000	20,67,000
3	Administration of Justice	Revenue 4,50,37,000	93,00,000	5,43,37,000
4	Elections	Revenue 1,32,39,000	..	1,32,39,000
5	Revenue	Revenue 10,87,08,000	40,000	10,87,48,000
6	Excise and Taxation	Revenue 5,75,40,000	64,000	5,76,04,000
7	Finance	Revenue 45,63,52,000	63,000	45,64,15,000
8	Public Service Commission	Revenue 18,65,000	13,41,000	32,06,000
9	Civil Secretariat	Revenue 4,81,91,000	20,000	4,82,11,000
10	District Administration	Revenue 6,65,76,000	81,000	6,66,57,000
11	Police	Revenue 49,86,93,000	2,83,000	49,89,76,000
12	Jails	Revenue 3,95,25,000	..	3,95,25,000
13	Stationery and Printing	Revenue 4,39,53,000	6,45,000	4,45,98,000
	Capital	18,40,000	..	18,40,000
14	Miscellaneous Services	Revenue 5,05,73,000	..	5,05,73,000
15	Rehabilitation, Relief and Resettlement	Revenue 61,19,000	..	61,19,000
16	Education	Revenue 182,88,23,000	2,64,43,000	185,52,66,000
17	Technical Education, Science and Technology	Revenue 2,02,63,000	..	2,02,63,000
	Capital	10,50,000	..	10,50,000
18	Medical and Public Health	Revenue 71,46,46,000	1,00,000	71,47,46,000
	Capital	1,00,00,000	..	1,00,00,000
19	Housing and Urban Development	Revenue 2,46,76,000	5,000	2,46,81,000
	Capital	7,63,93,000	..	7,63,93,000
20	Information and Publicity	Revenue 1,82,00,000	..	1,82,00,000
21	Tourism and Cultural Affairs	Revenue 58,13,000	..	58,13,000
	Capital	25,00,000	..	25,00,000
22	Labour, Employment and Industrial Training	Revenue 8,53,86,000	10,000	8,53,96,000
	Capital	16,83,000	..	16,83,000
23	Social Security and Welfare	Revenue 26,37,28,000	56,000	26,37,84,000
	Capital	1,64,00,000	..	1,64,00,000
24	Planning and Statistics	Revenue 1,41,38,000	1,000	1,41,39,000
25	Co-operation	Revenue 6,55,72,000	30,000	6,56,02,000
	Capital	9,29,66,000	..	9,29,66,000
26	Agriculture	Revenue 28,87,32,000	47,000	28,87,79,000
	Capital	3,08,00,000	..	3,08,00,000
27	Soil and Water Conservation	Revenue 3,91,50,000	5,000	3,91,55,000
28	Food	Revenue 1,47,12,000	..	1,47,12,000
	Capital	436,14,20,000	1,80,000	4,36,16,00,000
29	Animal Husbandry	Revenue 12,51,24,000	50,000	12,51,74,000
30	Dairy Development	Revenue 59,09,000	..	59,09,000
31	Fisheries	Revenue 92,82,000	31,000	93,13,000
32	Forests	Revenue 11,02,96,000	2,000	11,02,98,000
33	Community Development	Revenue 43,59,77,000	4,000	43,59,81,000
34	Industries	Revenue 11,01,20,000	1,05,000	11,02,25,000
	Capital	7,62,00,000	..	7,62,00,000
35	Civil Aviation	Revenue 44,69,000	..	44,69,000
	Capital	8,00,000	..	8,00,000
36	Roads and Bridges	Revenue 23,13,25,000	3,15,000	23,16,40,000
	Capital	22,30,00,000	..	22,30,00,000
37	Road Transport	Revenue 66,18,73,000	7,50,000	66,26,23,000
	Capital	9,00,00,000	..	9,00,00,000
38	Multi-purpose River Projects	Revenue 11,84,70,000	..	11,84,70,000
	Capital	31,66,16,000	..	31,66,16,000
39	Irrigation, Drainage and Flood Control	Revenue 60,59,66,000	..	60,59,66,000
	Capital	42,69,51,000	..	42,69,51,000

1	2	3
		Rs. Rs. Rs.
40 Building	.. Revenue	51,46,62,000 9,00,000 51,55,67,000
	.. Capital	13,85,96,000 .. 13,85,96,000
Public Debt	.. Capital	1022,38,21,000 1022,38,21,000
Interest Payments and Servicing of Debt	.. Revenue	91,88,46,000 91,88,46,000
41 Loans and Advances by the State Government	.. Capital	260,33,33,000 .. 260,33,33,000
Total	..	1624,40,81,000 1118,57,12,000 2742,97,93,000

Assented to on 10th August, 1984.

THE PONDICHERRY APPROPRIATION (NO. 2) ACT, 1984

(ACT No. 47 OF 1984)

AN

ACT

to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of the Union territory of Pondicherry for the services of the financial year 1984-85.

Be it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows :—

1. *Short title.*—This Act may be called the Pondicherry Appropriation (No. 2) Act, 1984.

2. *Issue of Rs. 77,11,83,000 out of the Consolidated Fund of the Union territory of Pondicherry for the financial year 1984-85.*—From and out of the Consolidated Fund of the Union territory of Pondicherry there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate [inclusive of the sum specified in column 3 of the Schedule to the Pondicherry Appropriation (Vote on Account) Act, 1984 (12 of 1984)] to the sum of seventy-seven crores, eleven lakhs and eighty-three thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1984-85, in respect of the services specified in column 2 of the Schedule.

3. *Appropriation.*—The sums authorised to be paid and applied from and out of the Consolidated Fund of the Union territory of Pondicherry by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year.

THE SCHEDULE

(See sections 2 and 3)

No. of Vote/ Ap- prop- riation 1	Service and purpose 22	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
1 Legislative Assembly	.. Revenue	20,69,000	61,000	21,30,000
2 Administrator	.. Revenue	20,000	12,58,000	12,78,000
3 Council of Ministers	.. Revenue	14,04,000	..	14,04,000
4 Administration of Justice	.. Revenue	35,29,000	..	35,29,000
5 Elections	.. Revenue	6,37,000	..	6,37,000
6 Revenue and Food	.. Revenue	1,91,52,000	1,00,000	1,92,52,000
	.. Capital	22,000	..	22,000
7 Sales Tax	.. Revenue	17,80,000	..	17,80,000
8 Transport	.. Revenue	22,61,000	..	22,61,000
9 Secretariat	.. Revenue	64,63,000	..	64,63,000
10 District Administration	.. Revenue	3,18,85,000	..	3,18,85,000
	.. Capital	22,50,000	..	22,50,000
11 Treasury and Accounts Administration	.. Revenue	40,25,000	..	40,25,000
12 Police	.. Revenue	2,13,33,000	..	2,13,33,000
13 Jails	.. Revenue	8,75,000	..	8,75,000
14 Stationery and Printing	.. Revenue	51,71,000	..	51,71,000
15 Retirement Benefits	.. Revenue	1,06,98,000	..	1,06,98,000
16 Public Works	.. Revenue	6,75,99,000	20,000	6,76,19,000
	.. Capital	5,75,91,000	..	5,75,91,000
17 Education	.. Revenue	11,36,59,000	..	11,36,59,000
	.. Capital	40,000	..	40,000
18 Medical	.. Revenue	5,49,83,000	..	5,49,83,000
19 Information and Publicity	.. Revenue	48,08,000	..	48,08,000
20 Labour and Employment	.. Revenue	58,68,000	..	58,68,000
21 Social Welfare	.. Revenue	3,45,64,000	..	3,45,64,000
22 Co-operation	.. Revenue	1,06,27,000	..	1,06,27,000
	.. Capital	1,32,08,000	..	1,32,08,000

विचार कि
पद के मर्त
पगन्तु
की अपक्ष
अपक्ष के
विचार के

1	2	3	4	5
			Rs.	Rs.
23	Statistics	Revenue	12,02,000	12,02,000
24	Agriculture	Revenue	2,41,97,000	2,41,97,000
		Capital	2,68,000	2,68,000
25	Animal Husbandry	Revenue	71,75,000	71,75,000
26	Fisheries	Revenue	81,75,000	81,75,000
		Capital	53,73,000	53,73,000
27	Community Development	Revenue	26,90,000	26,90,000
		Capital	12,00,000	12,00,000
28	Industries	Revenue	1,13,58,000	1,13,58,000
		Capital	60,00,000	60,00,000
29	Electricity	Revenue	7,08,76,000	7,08,76,000
		Capital	7,04,02,000	7,04,02,000
30	Ports and Pilotage	Revenue	9,44,000	9,44,000
		Capital	25,00,000	25,00,000
	<i>Public Debt</i>	Revenue	3,50,34,000	3,50,34,000
		Capital	3,27,41,000	3,27,41,000
31	Loans to Government Servants	Capital	1,30,88,000	1,30,88,000
	Total		70,19,69,000	6,92,14,000
				77,11,83,000

Assented to on 16th August, 1984.

THE ELECTRICITY (SUPPLY) AMENDMENT ACT, 1984

(ACT No. 48 OF 1984)

AN

ACT

further to amend the Electricity (Supply) Act, 1948

BE it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Electricity (Supply) Amendment Act, 1984.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
2. *Amendment of section 28.*—In section 28 of the Electricity (Supply) Act, 1948 (54 of 1948) (hereinafter referred as the principal Act), after sub-section (2), the following sub-section shall be inserted, namely:—
“(2A) The Board or, as the case may be, the Generating Company shall, as soon as may be after it has sanctioned, any scheme which is not of the nature referred to in section 29, forward the scheme to the Authority and if required by the Authority so to do, supply to the Authority any information incidental or supplementary to the scheme within such period as may be specified by the Authority.”
3. *Amendment of section 29.*—In section 29 of the principal Act, in sub-section (1), for the words “one crore of rupees”, the words “five crores of rupees” shall be substituted.

Assented to on 16th August, 1984.

THE INDUSTRIAL DISPUTES (AMENDMENTS) ACT 1984

AN

ACT

further to amend the Industrial Disputes Act, 1947.

BE it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Industrial Disputes (Amendment) Act, 1984.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act.
2. *Amendment of section 2.*—In section 2 of the Industrial Disputes Act, 1947 (14 of 1947) (hereinafter referred to as the principal Act), in clause (O33), after sub-clause (b), the following sub-clause shall be inserted, namely:—
“(bb) termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or”
3. *Amendment of section 25F.*—In section 25F of the principal Act, in clause (a), the proviso shall be omitted.
4. *Amendment of section 25M.*—In section 25M of the principal Act,—
(a) in sub-section (1), for the words “with the previous permissions of such authority as may be specified by the appropriate Government by notification in the Official Gazette, unless such layoff is due to shortage of power or to natural calamity”, the words and brackets “with the prior permission of the appropriate

Government or such authority as may be specified by that Government by notification in the Official Gazette (hereinafter in this section referred to as the specified authority), obtained on an application made in this behalf, unless such lay-off is due to shortage of power or to natural calamity, and in the case of a mine, such lay-off is due also to fire, flood, excess of inflammable gas or explosion" shall be substituted ;

(b) for sub-sections (2) to (5), the following sub-sections shall be substituted, namely:—

- "(2) An application for permission under sub-section (1) shall be made by the employer in the prescribed manner stating clearly the reasons for the intended lay-off and a copy of such application shall also be served simultaneously on the workmen concerned in the prescribed manner.
- (3) Where the workmen (other than *badli* workmen or casual workmen) of an industrial establishment, being a mine, have been laid-off under sub-section (1) for reasons of fire, flood or excess of inflammable gas or explosion, the employer, in relation to such establishment shall, within a period of thirty days from the date of commencement of such lay-off, apply, in the prescribed manner, to the appropriate Government or the specified authority for permission to continue the lay-off.
- (4) Where an application for permission under sub-section (1) or sub-section (3) has been made, the appropriate Government or the specified authority, after making such enquiry as it thinks fit and after giving a reasonable opportunity of being heard to the employer, the workmen concerned and the persons interested in such lay-off, may having regard to the genuineness and adequacy of the reasons for such lay-off, the interests of the workmen and all other relevant factors, by order and for reasons to be recorded in writing, grant or refuse to grant such permission and a copy of such order shall be communicated to the employer and the workmen.
- (5) Where an application for permission under sub-section (1) or sub-section (3) has been made and the appropriate Government or the specified authority does not communicate the order granting or refusing to grant permission to the employer within a period of sixty days from the date on which such application is made, the permission applied for shall be deemed to have been granted on the expiration of the said period of sixty days.
- (6) An order of the appropriate Government or the specified authority granting or refusing to grant permission shall, subject to the provisions of sub-section (7), be final and binding on all the parties concerned and shall remain in force for one year from the date of such order.
- (7) The appropriate Government or the specified authority may, either on its own motion or on the application made by the employer or any workman, review its order granting or refusing to grant permission under sub-section (4) or refer the matter or, as the case may be, cause it to be referred, to a Tribunal for adjudication:

Provided that where a reference has been made to a Tribunal under this sub-section, it shall pass an award within a period of thirty days from the date of such reference.

- (8) Where no application for permission under sub-section (1) is made, or where no application for permission under sub-section (3) is made within the period specified therein, or where the permission for any lay-off has been refused, such lay-off shall be deemed to be illegal from the date on which the workmen had been laid-off and the workmen shall be entitled to all the benefits under any law for the time being in force as if they had not been laid-off.
- (9) Notwithstanding anything contained in the foregoing provisions of this section, the appropriate Government may, if it is satisfied that owing to such exceptional circumstances as accident in the establishment or death of the employer or the like, it is necessary so to do, by order, direct that the provisions of sub-section (1), or, as the case may be, sub-section (3) shall not apply in relation to such establishment for such period as may be specified in the order."

(c) sub-section (6) shall be re-numbered as sub-section (10) .

5. *Substitution of new section for section 25N.*—For section 25 N of the principal Act, the following section shall be substituted, namely:—

"25N. *Conditions precedent to retrenchment of workmen.*—(1) No workman employed in any industrial establishment to which this Chapter applies, who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until,—

- (a) the workman has been given three months' notice in writing indicating the reasons for retrenchment and the period of notice, has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice; and
- (b) the prior permission of the appropriate Government or such authority as may be specified by that Government by notification in the Official Gazette (hereinafter in this section referred to as the specified authority) has been obtained on an application made in this behalf.

(2) An application for permission under sub-section (1) shall be made by the employer in the prescribed manner stating clearly the reasons for the intended retrenchment and a copy of such application shall also be served simultaneously on the workmen concerned in the prescribed manner.

(3) Where an application for permission under sub-section (1) has been made, the appropriate Government or the specified authority, after making such enquiry as it thinks fit and after giving a reasonable opportunity of being heard to the employer, the workmen concerned and the persons interested in such retrenchment, may, having regard to the genuineness and adequacy of the reasons stated by the employer the interests of the workmen and all other relevant factors, by order and for reasons to be recorded in

writing, grant or refuse to grant such permission and a copy of such order shall be communicated to the employer and the workmen.

- (4) Where an application for permission has been made under sub-section (1) and the appropriate Government or the specified authority does not communicate the order granting or refusing to grant permission to the employer within a period of sixty days from the date on which such application is made, the permission applied for shall be deemed to have been granted on the expiration of the said period of sixty days.
- (5) An order of the appropriate Government or the specified authority granting or refusing to grant permission shall, subject to the provisions of sub-section (6), be final and binding on all the parties concerned and shall remain in force for one year from the date of such order.
- (6) The appropriate Government or the specified authority may, either on its own motion or on the application made by the employer or any workman, review its order granting or refusing to grant permission under sub-section (3) or refer the matter or, as the case may be, cause it to be referred to a Tribunal for adjudication :

Provided that where a reference has been made to a Tribunal under this sub-section, it shall pass an award within a period of thirty days from the date of such reference.

- (7) Where no application for permission under sub-section (1) is made, or where the permission for any retrenchment has been refused, such retrenchment shall be deemed to be illegal from the date on which the notice of retrenchment was given to the workman and the workman shall be entitled to all the benefits under any law for the time being in force as if no notice has been given to him.
- (8) Notwithstanding anything contained in the foregoing provisions of this section, the appropriate Government may, if it is satisfied that owing to such exceptional circumstances as accident in the establishment or death of the employer or the like, it is necessary so to do, by order direct that the provisions of sub-section (1) shall not apply in relation to such establishment for such period as may be specified in the order.

(9) Where permission for retrenchment has been granted under sub-section (3) or where permission for retrenchment is deemed to be granted under sub-section (4) every workman who is employed in that establishment immediately before the date of application for permission under this section shall be entitled to receive at the time of retrenchment compensation which shall be equivalent to fifteen days average pay for every completed year of continuous service or any part thereof in excess of six months."

6. *Amendment of section 25Q.*—In section 25Q of the principal Act, the words, brackets, letter and figures "clause (c) of sub-section (1) or sub-section (4) of" shall be omitted.

7. *Amendment of Act 46 of 1982.*—In the Industrial Disputes (Amendment) Act, 1982,—

- (a) in sub-section (2) of section 1, after the words "by notification in the Official Gazette, appoint", the words "and different dates may be appointed for different provisions of this Act" shall be inserted ;
- (b) section 13 shall be omitted.

The above Bill has been passed by the Houses of Parliament.

Dated the August, 1984.

Chairman.

I assent to this Bill.

President.

Dated the August, 1984.

Assented to on 16th August, 1984.

THE APPROPRIATION (No. 4) ACT, 1984 (ACT No. 50 of 1984)

AN

ACT

to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the services of the financial year 1984-85.

BE it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows :—

1. *Short title.*—This Act may be called the Appropriation (No. 4) Act, 1984.

2. *Issue of Rs. 963,69,33,000 out of the Consolidated Fund of India for the year 1984-85.*—From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of nine hundred and sixty three crores, sixty-nine lakhs and thirty-three thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1984-85, in respect of the services specified in column 2 of the Schedule.

3rd Appropriation.—The sums authorised to be paid and applied from and out of the Consolidated Fund of India by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year.

THE SCHEDULE

(See sections 2 and 3)

No. of Vol.	Services and purposes	Sums not exceeding.		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
1	2	3		
		Rs.	Rs.	Rs.
1 Department of Agriculture and Co-operation	.. Revenue	1,00,000	..	1,00,000
2 Agriculture	.. Revenue	103,99,00,000	..	103,99,00,000
	.. Capital	..	60,00,00,000	60,00,00,000
5 Forest	.. Revenue	1,000	..	1,000
6 Co-operation	.. Capital	..	5,00,00,000	5,00,00,000
9 Ministry of Chemicals and Fertilizers	.. Revenue	2,48,25,000	..	2,48,25,000
	.. Capital	..	3,23,00,000	3,23,00,000
11 Foreign Trade and Export Production	.. Revenue	60,00,000	..	60,00,000
	.. Capital	12,75,00,000	..	12,75,00,000
12 Textiles Handloom and Handicrafts	.. Capital	60,00,00,000	..	60,00,00,000
25 Education	.. Revenue	10,00,00,000	..	10,00,00,000
28 Department of Petroleum	.. Revenue	12,00,00,000	..	12,00,00,000
29 Department of Power	.. Revenue	2,00,00,000	..	2,00,00,000
	.. Capital	2,00,00,000	11,00,00,000	13,00,00,000
31 Department of Non-Conventional Energy Sources	Revenue	30,00,00,000	..	30,00,00,000
	Capital	14,75,99,000	..	14,75,99,000
39 Currency Coinage and Mint	.. Revenue	18,25,00,000	..	18,25,00,000
	.. Capital	54,75,00,000	..	54,75,00,000
43 Other Expenditure of the Ministry of Finance	.. Capital	148,74,94,000	1,20,00,000	149,94,94,000
46 Department of Civil Supplies	.. Revenue	6,00,000	..	6,00,000
	.. Capital	1,57,68,000	..	1,57,68,000
53 Police	.. Revenue	60,50,000	50,000	61,00,000
54 Other Administrative and General Services	.. Revenue	..	1,00,000	1,00,000
62 Industries	.. Revenue	30,55,00,000	..	30,55,00,000
	.. Capital	23,86,53,000	..	23,86,53,000
63 Village and Small Industries	.. Revenue	150,00,00,000	..	150,00,00,000
66 Broadcasting	.. Capital	1,000	13,05,000	13,06,000
67 Ministry of Irrigation	.. Revenue	15,00,00,000	..	15,00,00,000
70 Department of Rehabilitation	.. Capital	2,67,00,000	..	2,67,00,000
76 Ministry of Rural Development	..	1,000	..	1,000
79 Ports, Lighthouses and Shipping	.. Capital	1,90,00,000	..	1,90,00,000
80 Road and Inland Water Transport	.. Capital	45,00,00,000	..	45,00,00,000
83 Department of Mines	.. Capital	40,00,00,000	..	40,00,00,000
86 Aviation	.. Revenue	5,48,00,000	..	5,48,00,000
89 Public Works	.. Capital	1,000	..	1,000
90 Water Supply and Sewerage	.. Revenue	50,00,00,000	..	50,00,00,000
91 Housing and Urban Development	.. Revenue	10,00,00,000	..	10,00,00,000
96 Department of Electronics	.. Capital	33,01,00,000	..	33,01,00,000
99 Department of Science and Technology	.. Revenue	50,00,000	..	50,00,000
	.. Capital	50,00,000	..	50,00,000
108 Department of Parliamentary Affairs	.. Revenue	5,85,000	..	5,85,000
Total	..	838,11,78,000	80,57,55,000	936,69,33,000

Assented to on 18th August, 1984

THE MULTI-STATE CO-OPERATIVE SOCIETIES ACT, 1984

(ACT No. 51 OF 1984)

AN

ACT

to consolidate and amend the law relating to co-operative societies with objects not confined to one State and serving the interests of members in more than one State.

Be it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.—(1) This Act may be called the Multi-State Co-operative Societies Act, 1984.

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- (2) It extends to the whole of India.
- (3) It shall come into force on such date as the Central Government may by notification in the Official Gazette, appoint.

2. *Application.*—This Act shall apply to—

- (a) all co-operative societies, with objects not confined to one State, which were incorporated before the commencement of this Act,
 (i) under the Co-operative Societies Act, 1912 (2 of 1912), or
 (ii) under any other law relating to co-operative societies in force in any State or in pursuance of the Multi-unit Co-operative Societies Act, 1942, (6 of 1942)

and the registration of which has not been cancelled before such commencement ; and

- (b) all multi-State co-operative societies.

3. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) “board” means the board of directors or the governing body of a multi-State co-operative society by whatever name called, to which the direction and control of the management of the affairs of the society is entrusted;

(b) “bye-laws” means the bye-laws for the time being in force which have been duly registered under this Act and includes amendments thereto which have been duly registered under this Act;

(c) “Central Registrar” means the Central Registrar of Co-operative Societies appointed under sub-section (1) of section 4 and includes any officer empowered to exercise the powers of the Central Registrar under sub-section (2) of that section ;

(d) “Chief Executive” means a Chief Executive of a multi-State co-operative society appointed under section 44;

(e) “co-operative bank” means a multi-State co-operative society which undertakes banking business;

(f) “co-operative principles” means the co-operative principles specified in the First Schedule;

(g) “co-operative society” means a society registered or deemed to be registered under any law relating to co-operative societies for the time being in force in any State;

(h) “co-operative year”, in relation to any multi-State co-operative society or class of such societies, means the year ending on the 30th day of June and where the accounts of such society or class of such societies are, with the previous sanction of the Central Registrar, balanced on any other day, the year ending on such day;

(i) “Deposit Insurance Corporation” means the Deposit Insurance and Credit Guarantee Corporation established under section 3 of the Deposit Insurance Corporation Act, 1961 (47 of 1961);

(j) “member” means a person joining in the application for the registration of a multi-State co-operative society and includes a person admitted to membership after such registration in accordance with the provisions of this Act, the rules and the bye-laws;

(k) “multi-State co-operative society” means a society registered or deemed to be registered under this Act and includes a national co-operative society;

(l) “multi-State co-operative society with limited liability” means a society having the liability of its members limited by its bye-laws to the amount, if any, unpaid on the shares respectively, held by them or to such amount as they may, respectively, hereby undertake to contribute to the assets of the society, in the event of its being wound up;

(m) “national co-operative society” means a multi-State co-operative society specified in the Second Schedule;

(n) “notification” means a notification published in the Official Gazette;

(o) “officer” means a president, vice-president, Chairman, vice-chairman, managing director, secretary, manager, member of a board, treasurer, liquidator, an administrator appointed under section 48 and includes any other person empowered under this Act or the rules or the bye-laws to give directions in regard to the business of a multi-State co-operative society;

(p) “prescribed” means prescribed by rules;

(q) “Reserve Bank” means the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934 (2 of 1934);

(r) “rules” means the rules made under this Act.

CHAPTER II

CENTRAL REGISTRAR AND REGISTRATION OF SOCIETIES

4. *Central Registrar.*—(1) The Central Government may appoint a person to be the Central Registrar of Co-operative Societies and may appoint such other persons as it may think fit to assist the Central Registrar.

(2) The Central Government may, by notification, direct that any power exercisable by the Central Registrar under this Act (other than the power of registration of a multi-State co-operative society) shall in relation to such society, and such matters as may be specified in the notification be exercisable also by any other officer of the Central Government or of a State Government as may be authorised by the Central Government subject to such conditions as may be specified therein:

Provided that no officer of a State Government shall be empowered to exercise such power in relation to a national co-operative society:

Provided further that no officer of a State Government below the rank of the Registrar of Co-operative Societies shall be empowered to exercise any power exercisable by the Central Registrar under section 87.

5. *Multi-State co-operative societies which may be registered.*—(1) No multi-State co-operative society shall be registered under this Act, unless the main objects of the society are to serve the interests of members in more than one State.

(2) Subject to the provisions of sub-section (1), a multi-State co-operative society, which has as its objects the promotion of the economic and social betterment of its members through mutual aid in accordance with the co-operative principles or a multi-State co-operative society established with the object of facilitating the operations of other such societies or of co-operative societies or of both may be registered under this Act.

(3) The word "Limited" or its equivalent in any Indian language shall be suffixed to the name of every multi-State co-operative society registered under this Act shall with limited liability.

6. *Application for registration.*—(1) For the purposes of registration of a multi-State co-operative society under this Act, an application shall be made to the Central Registrar in such form and with such particulars as may be prescribed.

(2) The application shall be signed—

(a) in the case of a multi-State co-operative society of which all the members are individuals, by at least fifty persons from each of the State concerned;

(b) in the case of a multi-State co-operative society of which the members are co-operative societies, by duly authorised representatives on behalf of at least two such societies as are not registered in the same State; and

(c) in the case of a multi-State co-operative society of which another multi-State co-operative society and other co-operative societies are members, by duly authorised representatives of each of such societies:

Provided that not less than two of the co-operative societies referred to in clause (b) or clause (c), as the case may be, shall be such as are not registered in the same State.

(3) The application shall be accompanied by four copies of the proposed bye-laws of the multi-State co-operative society and the persons by whom or on whose behalf such application is made shall furnish such information in regard to the society as the Central Registrar may require.

7. *Registration.*—(1) If the Central Registrar is satisfied—

(a) that the application complies with the provisions of this Act and the rules;

(b) that the proposed multi-State co-operative society satisfies the basic criterion that its objects are to serve the interests of members in more than one State;

(c) that there is no other multi-State co-operative society having similar area of operation and identical objects;

(d) that the proposed bye-laws are not contrary to the provisions of this Act and the rules; and

(e) that the proposed multi-State co-operative society has reasonable prospects of becoming a viable unit,

he may register the multi-State co-operative society and its bye-laws.

(2) Where the Central Registrar refuses to register a multi-State co-operative society, he shall communicate the order of refusal together with the reasons therefor, to such number of the applicants and in such manner as may be prescribed.

(3) The application for registration shall be disposed of by the Central Registrar within a period of six months from the date of receipt thereof by him :

Provided that if the Central Registrar is unable to dispose of the application within the period aforesaid, he shall make a report to the Central Government stating therein the reasons for his inability to do so, and the Central Government may allow him such further period or periods as is considered necessary to dispose of such application.

8. *Registration certificate.*—Where a multi-State co-operative society is registered under this Act, the Central Registrar shall issue a certificate of registration signed by him which shall be conclusive evidence that the society therein mentioned is duly registered under this act, unless it is proved that the registration of the society has been cancelled.

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9. *Amendment of bye-laws of a multi-State co-operative society.*—(1) No amendment of any bye-laws of a multi-State co-operative society shall be valid, unless such amendment has been registered under this Act.

(2) Every proposal for such amendment shall be forwarded to the Central Registrar and if the Central Registrar is satisfied that the proposed amendment—

- (a) is not contrary to the provisions of this Act or the rules;
- (b) does not conflict with co-operative principles; and
- (c) will promote the economic interests of the members of the multi-State co-operative society,

he may register the amendment within a period of six months from the date of receipt thereof by him :

Provided that if the Central Registrar is unable to register the amendment within the period aforesaid he shall make a report to the Central Government stating therein the reasons for his inability to do so, and the Central Government may allow him such further period or periods as is considered necessary to register the amendment.

(3) The Central Registrar shall forward to the multi-State co-operative society a copy of the registered amendment together with a certificate signed by him and such certificate shall be conclusive evidence that the amendment has been duly registered.

(4) Where the Central Registrar refuses to register an amendment of the bye-laws of a multi-State co-operative society, he shall communicate the order of refusal together with the reasons therefor to the Chief Executive of the society in the manner prescribed within seven days from the date of such refusal.

10. *When amendment of bye-laws comes into force.*—An amendment of the bye-laws of a multi-State co-operative society shall, unless it is expressed to come into operation on a particular day, come into force on the day on which it is registered.

11. *Change of name.*—(1) A multi-State co-operative society may, by an amendment of its bye-laws, change its name but such change shall not affect any right or obligation of the multi-State co-operative society or of any of its members or past members, and any legal proceedings which might have been continued or commenced by or against the multi-State co-operative society by its former name may be continued or commenced by or against its new name.

(2) Where a multi-State co-operative society changes its name, the Central Registrar shall enter the new name on the register of multi-State co-operative societies in place of the former name and shall amend the certificate of registration accordingly.

12. *Change of address.*—Every multi-State co-operative society shall have a principal place of business and an address registered in the manner prescribed to which all notices and communications may be sent and any change in the principal place of business of a multi-State co-operative society shall be made with the previous approval of the Central Registrar.

13. *Liability.*—(1) No multi-State co-operative society with unlimited liability shall be registered after the commencement of this Act:

Provided that where a multi-unit co-operative society with unlimited liability was functioning before the commencement of this Act, such a society shall exercise the option within a period of one year from such commencement either to continue to function as such or to convert itself into a multi-State co-operative society with limited liability by following the procedure specified in sub-sections (2) to (4).

(2) Subject to the provisions of this Act and the rules, a multi-unit co-operative society may, by an amendment of its bye-laws, change the extent of its liability.

(3) When a multi-unit co-operative society has passed a resolution to change the extent of its liability, it shall give notice thereof in writing to all its members and creditors, and, notwithstanding anything contained in the bye-laws or contract to the contrary, any member or creditor shall, during the period of one month from the date of service of the notice upon him, have the option of withdrawing his shares, deposits or loans, as the case may be.

(4) Any member or creditor who does not exercise his option within the period specified in sub-section (3) shall be deemed to have assented to the change.

(5) An amendment of a bye-law of a multi-unit co-operative society changing the extent of its liability shall not be registered or shall not take effect until either —

- (a) the assent thereto of all members and creditors has been obtained; or
- (b) all claims of members and creditors who exercise the option referred to in sub-section (3) within the period specified therein have been met or otherwise satisfied.

14. *Amalgamation or transfer of assets and liabilities, or division of multi State co-operative societies.*—(1) A multi-State co-operative society may, with the prior consultation of the Central Registrar and by a resolution passed by a majority of not less than two-thirds of the members present and voting at a general meeting of the society held for the purpose,—

- (a) transfer its assets and liabilities in whole or in part to any other multi-State co-operative society or co-operative society ;
- (b) divide itself into two or more multi-State co-operative societies ;
- (c) divide itself into two or more co-operative societies .

(2) Any two or more multi-State co-operative societies may, with the prior consultation of the Central Registrar and by a resolution passed by a majority of not less than two-thirds of the members present and voting at a general meeting of each such society, amalgamate themselves and form a new multi-State co-operative society.

(3) The resolution of a multi-State co-operative society under sub-section (1) or sub-section (2) shall contain all particulars of the transfer or division or amalgamation, as the case may be :

Provided that in the case of a co-operative bank, the Central Registrar shall not accord approval to any such resolution without the previous sanction in writing of the Reserve Bank.

(4) When a multi-State co-operative society has passed a resolution under sub-section (1) or sub-section (2) it shall give notice thereof in writing to all the members and creditors and, notwithstanding anything contained in the bye-laws or contract to the contrary, any member or creditor, shall during the period of one month of the date of service of the notice upon him, have the option of withdrawing his shares, deposits or loans, as the case may be.

(5) Any member or creditor who does not exercise his option within the period specified in sub-section (4) shall be deemed to have assented to the proposals contained in the resolution.

(6) (a) A resolution passed by a multi-State co-operative society under this section shall not take effect until the assent thereto of all the members and creditors has been obtained.

(b) The multi-State co-operative society shall make arrangement for meeting in full or otherwise satisfying all claims of the members and creditors who exercise the option with the period specified in sub-section (4).

(7) On receipt of an application for the registration of new societies formed by division in accordance with the resolution passed under sub-section (1) or of a new society formed by amalgamation in accordance with the resolution passed under sub-section (2), the Central Registrar, on being satisfied that the resolution has become effective under sub-section (6) shall, unless for reasons to be recorded in writing he thinks fit to refuse so to do, register the new societies or Society as the case may be, and the bye-laws thereof.

(8) On the issue of an order under sub-section (7), the provisions of section 17 shall, so far as may be, apply to the multi-State co-operative society so divided or the multi-State co-operative societies so amalgamated.

(9) Where a resolution passed by a multi-State co-operative society under this section involves the transfer of any assets and liabilities, the resolution shall, notwithstanding anything contained in any other law for the time being in force, be a sufficient conveyance to vest the assets and liabilities in the transferee without any further assurance.

15. *Central Registrar to prepare scheme of amalgamation or reorganisation of co-operative bank in certain cases.*—When an order of moratorium has been made by the Central Government under sub-section (2) of section 45 of the Banking Regulation Act, 1949 (10 of 1949) in respect of a co-operative bank, the Central Registrar, with the previous approval of the Reserve Bank in writing may, during the period of moratorium, prepare a scheme.—

(a) for the amalgamation of the co-operative bank with any other co-operative bank; or

(b) for the reorganisation of the co-operative bank.

16. *Liability of a co-operative bank to the Deposit Insurance and Credit Guarantee Corporation.*—Notwithstanding anything contained in section 14 or any other provision of this Act, where a co-operative bank, being an insured bank within the meaning of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (47 of 1961), is amalgamated or reorganised and the Deposit Insurance Corporation has become liable to pay to the depositors of the insured bank under sub-section (2) of section 16 of that Act, the bank with which such insured bank is amalgamated, or the new co-operative bank formed after such amalgamation, or as the case may be, the insured bank or transferee bank shall be under an obligation to repay to the Deposit Insurance Corporation in the circumstances, to the extent and in the manner referred to in section 21 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961.

17. *Cancellation of registration certificate of multi-State co-operative societies in certain cases.*—(1) Where the whole of the assets and liabilities of a multi-State co-operative society are transferred to another multi-State co-operative society or to a co-operative society in accordance with the provisions of section 14, the registration of the first mentioned multi-State co-operative society shall stand cancelled and the society shall be deemed to have been dissolved and shall cease to exist as a corporate body.

(2) Where two or more multi-State co-operative societies are amalgamated into a new multi-State co-operative society in accordance with the provisions of section 14, the registration of each of the amalgamating societies shall stand cancelled on the registration of the new society, and each of the amalgamating societies shall be deemed to have been dissolved and shall cease to exist as a corporate body.

(3) Where a multi-State co-operative society divides itself into two or more multi-State co-operative societies or two or more co-operative societies in accordance with the provisions of section 14, the registration of that society shall stand cancelled on the registration of the new societies, and that society shall be deemed to have been dissolved and shall cease to exist as a corporate body.

(4) The amalgamation or division of multi-State co-operative societies shall not in any manner whatsoever affect any right or obligation of the resulting multi-State co-operative society or societies or render defective any legal proceedings by or against the multi-State co-operative society or societies, and any legal proceedings that might have been continued or commenced by or against the multi-State co-operative society or societies, as the case may be before the amalgamation or division may be continued or commenced by or against the resulting multi-State co-operative society or societies.

18. *Conversion of Co-operative society into multi-State co-operative society.*—(1) A co-operative society may, by an amendment of its bye-laws, extend its jurisdiction and convert itself into a multi-State co-operative society :

Provided that no such amendment of bye-laws of a co-operative society shall be valid unless it has been registered by the Central Registrar.

Every proposal for such amendment shall be forwarded to the Central Registrar.

(b) If the Central Registrar, after consulting the Registrars of Co-operative Societies of the State concerned, has satisfied himself that such amendment fulfills the requirement of sub-section (2) of section 9, he may register the amendment within a period of six months from the date of receipt thereof by him :

Provided that if the Central Registrar is unable to register the amendment within the period aforesaid, he shall make a report to the Central Government stating therein the reasons for his inability to do so, and the Central Government may allow him such further period or periods as is considered necessary to register the amendment.

(3) The Central Registrar shall forward to the co-operative society a copy of the registered amendment together with a certificate signed by him and such certificate shall be conclusive evidence that the amendment has been registered.

(4) Where the Central Registrar refuses to register an amendment of the bye-laws of a co-operative society, he shall communicate the order of refusal together with the reasons therefor to the society, in the manner prescribed within seven days from the date of refusal.

(5) (a) Once the amendment of bye-laws has been registered by the Central Registrar, the co-operative society shall, as from the date of registration of amendment, become a multi-State co-operative society.

(b) The Central Registrar shall forward to the co-operative society a certificate signed by him to the effect that such society has been registered as a multi-State co-operative society under this Act and also forward a copy of the same to the Registrar of Co-operative Societies of the State concerned.

(c) The Registrar of Co-operative Societies referred to in clause (b) shall thereupon make an order directing that the society had, as from the date of registration by the Central Registrar, ceased to be a society under the law relating to co-operative societies in force in that State.

CHAPTER III

MEMBERS OF MULTI-STATE CO-OPERATIVE SOCIETIES AND THEIR RIGHTS AND LIABILITIES

19. *Persons who may become members.*—(1) No person shall be admitted as member of a multi-State co-operative society except the following, namely:—

- (a) an individual competent to contract under section 11 of the Indian Contract Act, 1872 (9 of 1872);
- (b) any multi-State co-operative society or any co-operative society;
- (c) the Central Government;
- (d) a State Government;
- (e) the National Co-operative Development Corporation established under the National Co-operative Development Corporation Act, 1962 (26 of 1962);
- (f) any other corporation owned or controlled by Government;
- (g) any Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956);
- (h) such class or classes of persons or association of persons as may be permitted by the Central Registrar having regard to the nature and activities of a multi-State co-operative society.

(2) Such number of individuals possessing such qualifications as may be prescribed may be admitted as members of the National Co-operative Union of India Limited, New Delhi.

(3) Save as otherwise provided in sub-section (2) and notwithstanding anything contained in sub-section (1), no individual shall be eligible for admission as a member of a national co-operative society.

(4) Any person eligible for membership of a multi-State co-operative society may, on his application, be admitted as a member by such society.

(5) Every application for admission as a member of a multi-State co-operative society shall be disposed of by such society within a period of four months from the date of receipt of the application and the decision of such society on the application shall be communicated to the applicant within fifteen days from the date of such decision:

Provided that if the application is not disposed of within the period aforesaid, or the decision is not communicated within a period of fifteen days of the expiry of the aforesaid period of four months, the multi-State co-operative society shall be deemed to have made decision, on the date of expiry of such period, refusing admission to the applicant.

(6) Notwithstanding anything contained in this section, the Central Government may, having regard to the fact that the interest of any persons or class of persons conflicts or is likely to conflict with the objects of any multi-State co-operative society or class of multi-State co-operative societies, by general or special order published in the Official Gazette, declare that any person or class of persons engaged in or carrying on any profession, business or employment shall be disqualified from being admitted, or for continuing, as members or shall be eligible for membership only to a limited extent of any specified multi-State co-operative society or class of multi-State co-operative societies, so long as such person or persons is or are engaged in or carrying on that profession, business or employment, as the case may be.

20. *Members not to exercise rights till due payment made.*—No member of a multi-State co-operative society shall exercise the rights of a member, unless he has made such payments to the society in respect of membership, or has acquired such interest in the society, as may be specified in the bye-laws.

21. *Expulsion of members.*—(1) A multi-State co-operative society may, by resolution passed by a majority of not less than two-thirds of the members present and voting at a general meeting of members held for the purpose, expel a member for acts which are detrimental to the proper working of the society:

Provided that the member concerned shall not be expelled unless he has been given a reasonable opportunity of making representation in the matter.

(2) No member of the multi-State co-operative society who has been expelled under sub-section (1) shall be eligible for re-admission as a member of that society, for a period of three years from the date of such expulsion:

Provided that the Central Registrar may, on application of the multi-State co-operative society and if satisfied that in the special circumstances of the case, it is necessary so to do in the interests of the multi-State co-operative society, sanction the re-admission or admission within the said period, of any such member as a member of the said society.

22. Votes of members.—Every member of a multi-State co-operative society, including a member who is an employee of such society, shall have one vote in the affairs of the society:

Provided that—

- (a) a member who is an employee of such society shall not be entitled to vote—
 - (i) at an election of a member of the board of such society;
 - (ii) in any general meeting convened for framing the bye-laws of such society or any amendments thereto;
- (b) in the case of an equality of votes, the Chairman shall have a second or casting vote;
- (c) where any of the authorities referred to in clauses (c) to (g) of sub-section (1) of section 19 is a member of a multi-State co-operative society, each person nominated by such authority, on the board, in accordance with the provisions contained in this Act and the rules, shall have one vote;
- (d) a multi-State co-operative society, the members of which include co-operative societies or other multi-State co-operative societies, may provide for an equitable system of voting having regard to the membership of, and the extent of business carried on by such co-operative societies, or multi-State co-operative societies and other relevant circumstances.

23. Manner of exercising vote.—Every member of a multi-State co-operative society shall exercise his vote in person and no member shall be permitted to vote by proxy :

Provided that a multi-State co-operative society or a co-operative society which is a member of another multi-State co-operative society, may, subject to the provisions of sub-section (3) of section 29 and the rules, appoint its representative to vote on its behalf in the affairs of that other society.

24. Restrictions on holding of shares.—No member, other than any of the authorities referred to in clauses (c) to (g) of sub-section (1) of section 19 or a multi-State co-operative society or a co-operative society, shall hold more than such portion of the total share capital of the society (in no case exceeding one-fifth thereof) as may be prescribed :

Provided that the Central Government may, by notification, specify in respect of any class of societies a higher or lower maximum than one-fifth of the share capital.

25. Restrictions on transfer of shares or interest.—The transfer of the share or interest of a member in the capital of a multi-State co-operative society shall be subject to such conditions as to maximum holding as are specified in section 24.

26. Redemption of shares.—Shares held in a multi-State co-operative society by any of the authorities referred to in clauses (c) to (g) of sub-section (1) of section 19 shall be redeemable in accordance with the bye-laws of such multi-State co-operative society and in a case where the bye-laws do not contain any provision in this regard, in such manner as may be agreed upon between the multi-State co-operative society and such authority.

27. Transfer of interest on death of members.—(1) On the death of a member, a multi-State co-operative society may transfer the share or interest of the deceased member to the person nominated in accordance with the rules made in this behalf, or, if there is no person so nominated, to such person as may appear to the board to be the heir or legal representative of the deceased member, or pay to such nominee, heir or legal representative, as the case may be, a sum representing the value of such member's share or interest as ascertained in accordance with the rules:

Provided that no such transfer or payment shall be made except with the consent of the nominee, heir or legal representative, as the case may be.

(2) A multi-State co-operative society shall, unless within six months of the death of the member prevented by an order of a competent court, pay to such nominee, heir or legal representative, as the case may be, all other moneys due to the deceased member from the society.

(3) All transfers and payments made by a multi-State co-operative society in accordance with the provisions of this section shall be valid and effectual against any demand made upon the society by any other person.

28. Liability of past member and estate of deceased member.—(1) Subject to the provisions of sub-section (2), the liability of a past member or of the estate of a deceased member of a multi-State co-operative society for the debts of the society as they existed,—

- (a) in the case of a past member, on the date on which he ceased to be a member ;
- (b) in the case of a deceased member, on the date of his death, shall continue for a period of two years from such date.

(2) Notwithstanding anything contained in sub-section (1), where a multi-State co-operative society is ordered to be wound up under section 77, the liability of a past member who ceased to be a member or of the estate of a deceased member who died within two years immediately preceding the date of the order of winding up, shall continue until the entire liquidation proceedings are completed, but such liability shall extend only to the debts of the society as they existed on the date of cessation of membership or death, as the case may be.

CHAPTER IV

DIRECTION AND MANAGEMENT OF MULTI-STATE CO-OPERATIVE SOCIETIES

29. General body, its constitution, powers and functions.—(1) The general body of a multi-State co-operative society shall consist of all the members of such society :

Provided that where the bye-laws of a multi-State co-operative society provide for the constitution of a smaller body consisting of delegates of members of the society elected or selected in accordance with such bye-laws, that smaller body shall exercise such powers of the general body as may be prescribed or as may be specified in the bye-laws of the society.

(2) Subject to the provisions of this Act, the rules and the bye-laws, the ultimate authority of a multi-State co-operative society shall vest in the general body of its members :

Provided that nothing contained in this sub-section shall affect the exercise by the board or any officer of a multi-State co-operative society of any power conferred on such board or such officer by this Act or the rules or the bye-laws.

(3) Where in any meeting of the general body or the board of a multi-State co-operative society, a co-operative society or another multi-State co-operative society is to be represented, such co-operative society or other multi-State co-operative society shall be represented in such meeting only through the Chairman or the Chief Executive of such co-operative society or other multi-State co-operative society, as the case may be, and where there is no board of such co-operative society or other multi-State co-operative society, for whatever reasons, through the administrator, by whatever name called of such co-operative society or other multi-state co-operative society.

30. Annual general meeting of the general body.—(1) Every multi-State co-operative society shall, within such period as may be prescribed, after the close of the year, call a general meeting of its members in the manner prescribed for the purpose of —

- (a) consideration of the audit report and annual report ;
- (b) disposal of net profit ;
- (c) approval of the programme of activities for the ensuing year ;
- (d) amendment of bye-laws ;
- (e) election, if any, of the members of the board, other than nominated members, subject to the provisions of sections 35 :

Provided that the Central Registrar may, by general or special order, extend the period for holding such meeting for a further period not exceeding three months :

Provided further that if in the opinion of the Central Registrar no such extension is necessary or such meeting is not called by the multi-state co-operative society within the extended period, if any, granted by him, the Central Registrar or any person authorised by him in this behalf may call such meeting in the manner prescribed, and that meeting shall be deemed to be a general meeting duly called by the society and the Central Registrar may order that expenditure incurred in calling such a meeting shall be paid out of the funds of the society or by such person or persons who, in the opinion of the Central Registrar, was or were responsible for the refusal or failure to convene the general meeting.

(2) At every annual general meeting of a multi-State co-operative society the Board shall lay before the society a statement showing the details of the loans or goods on credit, if any, given to any of the members of the board or to the spouse or a son or daughter of a member of the board during the preceding year or outstanding against him or against such spouse or son or daughter of the member of the board.

31. Special general meeting of the general body.—(1) The Chief Executive may, at any time, on the direction of the board, call a special general meeting of the society and shall call such meeting within one month after the receipt of a requisition in writing from the Central Registrar or from such member or members or a proportion of the total number of members, as may be provided in the bye-laws.

(2) If a special general meeting of a multi-State co-operative society is not called in accordance with the requisition referred to in sub-section (1), the Central Registrar or any person authorised by him in this behalf shall have the power to call such meeting and that meeting shall be deemed to be a meeting called by the Chief Executive in accordance with the provisions of that sub-section and the Central Registrar may order that the expenditure incurred in calling such meeting shall be paid out of the funds of the society or by such person or persons who, in the opinion of the Central Registrar, was or were responsible for the refusal or failure to convene the special general meeting.

32. Board of directors.—Subject to the provisions of this Act and the rules, there shall be a board of directors of every multi-State co-operative society consisting of such number of members as may be provided for under the bye laws.

33. Association of employees in the management decision making process.—Every multi-State co-operative society shall devise such procedure, as may be specified in the bye-laws or in the administrative instructions, for association of the representatives of employees of such multi-State co-operative societies at such level or bodies as may be specified in the bye-laws or the instructions issued in this regard, in the management decision making process.

34. Disqualification for a member of a board.—No member of any multi-State co-operative society or nominee of a member-society on a national co-operative society shall be eligible for being chosen as, or for being a member of the board of such multi State co-operative society or national co-operative society or of any other co-operative society to which the multi-State co-operative society is affiliated, if such member —

- (a) has been adjudged by a competent court to be insolvent or of unsound mind ;
- (b) is concerned or participates in the profits of any contract with the society ;
- (c) has been convicted for an offence involving moral turpitude;
- (d) holds any office or place of profit under the society :

Provided that the Chief Executive or such full-time employee of the society as may be notified by the Central Government from time to time or a person elected by the employees of such society to represent them on the board of such society shall be eligible for being chosen as, or for being a member of such board ;

- (e) has been a member of the society for less than twelve months immediately preceding the date of such election or appointment;

- (f) has interest in any business of the kind carried on by the society of which he is a member ;
- (g) has taken loan or goods on credit from the society of which he is a member, or is otherwise indebted to such society and after the receipt of a notice of default issued to him by a such society, has defaulted—
 - (i) in repayment of such loan or debt or in payment of the price of the goods taken on credit, as the case may be, within the date fixed for such repayment or payment or where such date is extended, which in no case shall exceed six months, within the date so extended, or
 - (ii) when such loan or debt or the price of goods taken on credit is to be paid in instalments, in payment of any instalment, and the amount in default or any part thereof has remained unpaid on the expiry of six months from the date of such default ;

Provided that a member of the board who has ceased to hold office as such under this clause shall not be eligible, for a period of one year, from the date on which he ceased to hold office, for re-election as member of the board of the multi-State co-operative society of which he was a member or for election to the board of any other multi-State co-operative society ;

- (h) is a person against whom any amount due under a decree, decision or order is pending recovery under this Act.
- (i) is retained or employed as a legal practitioner on behalf of or against the multi-State co-operative society, or on behalf of or against any other multi-State co-operative society which is a member of the former society.

Explanation.—For the purposes of this clause “legal practitioner” has the same meaning as in clause (i) of subsection (1) of section 2 of the Advocates Act, 1961 (25 of 1961) ;

- (j) has been convicted for any offence under this Act.

35. Election of members of board.—(1) The superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, elections of the members of the board of such multi-State co-operative societies or class of multi-State co-operative societies as the Central Government may, by general or special order, notify, shall be vested in such returning officers as may be appointed by the Central Registrar in this behalf.

- (2) The vote at such elections shall be by secret ballot.

- (3) The term of office of the elected members of the board shall be such, not exceeding three years from the date of election, as may be specified in the bye-laws of a multi-State co-operative society :

Provided that the elected members shall continue to hold office till their successors are elected or nominated under the provisions of this Act or the rules or the bye-laws and assume the charge of their office.

- (4) No person shall be eligible to be elected as a member of the board of a multi-state co-operative society unless he is a member of the general body of that society .

- (5) The Central Government may make rules generally to provide for or to regulate matters in respect of elections of members of the board.

36. Holding of office in co-operative society.—Notwithstanding anything contained in this Act, no person shall be eligible to hold, at the same time, office of a president or chairman or vice-president or vice-chairman on the board of more than one multi-State co-operative society ;

Provided that any person holding, at the commencement of this Act, the office of a president or chairman or vice-president or vice-chairman in more than one multi-State co-operative society shall, within three months from such commencement by notice in writing signed by him, intimate the name of the multi-State co-operative society in which he wishes to serve and thereupon his office in the other multi-State co-operative society in which he does not wish to serve shall become vacant :

Provided further that in default of such intimation within the period referred to in the preceding proviso, his offices in all the multi-State co-operative societies shall, at the expiration of the period aforesaid, become vacant.

37. Restrictions on holding of office.—No person shall be eligible to hold the office of a president or chairman or vice-president or vice-chairman on the board of a multi-State co-operative society, after he has held the office as aforesaid during two consecutive terms, whether full or part :

Provided that a person who has ceased to hold the office of a president or chairman continuously for one full term of three years shall again be eligible for election to the offices aforesaid.

Explanation.—Where any person holding the office of the president or vice-president or chairman or vice-chairman at the commencement of this Act is again elected to that office after such commencement, he shall for the purpose of this section, be deemed to have held office for one term before such election.

38. Payment of honorarium.—Honorarium may be paid to the elected chairman or president of the board out of the profits of the multi-State co-operative society in respect of specific services rendered by him, subject to such restrictions and conditions as may be prescribed.

39. Removal of elected members by general body.—An elected member of a board who has acted adversely to the interests of multi-State co-operative society may, on the basis of a report from the Central Registrar or otherwise, be removed from the board upon a resolution of the general body passed at its meeting by a majority of not less than two-thirds of the members present and voting at the meeting :

Provided that the member concerned shall not be removed unless he has been given a reasonable opportunity of making representation in the matter.

40. Removal of member by Central Registrar.—If in spite of cessation of office under circumstances mentioned in section 34, section 36, section 37 or section 39 a member of the board refuses to vacate his office, the Central Registrar shall, by order in writing, remove him from such office.

41. Nominee of Central Government or State Government on the board.—(1) Where the Central Government or a State Government has subscribed to the share capital of a multi-State co-operative society or has guaranteed the repayment of principal and payment of interest on debentures issued by a multi-State co-operative society or has guaranteed the repayment of principal and payment of interest on loans and advances to a multi-State co-operative society, the Central Government or the State Government in this behalf, as the case may be, or any person authorised by the Central Government or the State Government, shall have the right to nominate on the board such number of persons as may be prescribed.

(2) The bye-laws of a multi-State co-operative society may provide for the nomination of persons in excess of the limits prescribed under sub-section (1).

(3) A person nominated under this section shall hold office during the pleasure of the Government by which he has been so nominated.

42. Powers and functions of the board.—(1) The board may exercise all such powers as may be necessary or expedient for the purpose of carrying out its functions under this Act.

(2) Without prejudice to the generality of the foregoing power, such power shall include the power—

- (a) to admit members;
- (b) to interpret the organisational objectives and set up specific goals to be achieved towards these objectives;
- (c) to make periodic appraisal of operations;
- (d) to appoint a Chief Executive and such other employees of the society (out of the list of persons referred to in section 50) as are not required to be appointed by the Chief Executive.
- (e) to make provisions for regulating the appointment of employees of the multi-State co-operative society and the scales of pay, allowances and other conditions of service of, including disciplinary action against, such employees;
- (f) to approve annual and supplementary budget;
- (g) to acquire or dispose of immovable property;
- (h) to raise funds;
- (i) to sanction loans to the members; and
- (j) to take such other measures or to do such other acts as may be prescribed or required under this Act.

43. Meetings of the board.—(1) The Chief executive shall convene the meetings of the board at the instance of the chairman or president of the multi-State co-operative society.

(2) The total number of meetings of the board in a year and the venue of meetings may be such as may be prescribed:

Provided that the board shall meet at least once in every quarter.

40. Chief Executive.—(1) There shall be a Chief Executive, by whatever designation called, of every multi-State co-operative society, to be appointed by the board and he shall be a full-time employee of such multi-State co-operative society.

(2) The Chief Executive shall be a member of the board and of the Executive Committee and such other committees or sub-committees as may be constituted under sub-section (1) of section 46.

(3) The functional directors in national co-operative societies shall also be members of the board.

(4) Where the Central Government has subscribed to the extent of more than one-half of the share capital of a national co-operative society, it shall be obligatory on such a society to seek prior approval of the Central Government to the appointment of Chief Executive and the functional directors.

45. Powers and functions of Chief Executive.—The Chief Executive shall exercise the powers and discharge the functions, specified below, namely:—

- (a) day-to-day management of the business of the multi-State co-operative society;
- (b) operating the accounts of the multi-State co-operative society and be responsible for making arrangements for safe custody of cash;
- (c) signing on the documents for and on behalf of the multi-State co-operative society;
- (d) making arrangements for the proper maintenance of various books and records of the multi-State co-operative society and for the correct preparation, timely submission of periodical statements and returns in accordance with the provisions of this Act, the rules and the bye-laws;
- (e) convening meetings of the general body of the multi-State co-operative society, the board and the Executive Committee and other committees or sub-committees constituted under sub-section (1) of section 46 and maintaining proper records for such meetings;
- (f) making appointments to posts in the multi-State co-operative society in accordance with the rules made under clause (e) of sub-section (2) of section 42 except the posts in relation to which the power of appointment vests in the board under clause (d) of that sub-section;
- (g) assisting the board in the formulation of policies and objectives and planning.
- (h) furnishing to the board periodical information necessary for appraising the operations and functions of the multi-State co-operative society;
- (i) performing such other duties, and exercising such other powers, as may be prescribed or as may be specified in the bye-laws of the multi-State co-operative society.

46. Committees of the board.—(1) The board may, subject to such conditions as may be prescribed, constitute an Executive Committee and other committees or sub-committees, as may be considered necessary.

(2) The Executive Committee or other committee or sub-committee referred to in sub-section (1) shall perform such functions as are assigned to it in accordance with the bye-laws of the multi-State co-operative society.

47. *Central Governments power to give directions in the public interest.*—If the Central Government is satisfied that in the public interest or for the purposes of securing proper implementation of co-operative production and other developmental programmes approved or undertaken by the Central Government or to secure proper management of the business of the multi-State co-operative societies generally or for preventing the affairs of the multi-State co-operative society being conducted in a manner detrimental to the interests of the members, any depositors or creditors thereof, it is necessary to issue directions to any class of multi-State co-operative societies generally or to any multi-State co-operative society or societies in particular, the Central Government may issue directions to them or to it, from time to time, and all such multi-State co-operative societies or the society concerned, as the case may be, shall be bound to comply with such directions.

48. *Super session of board.*—(1) If in the opinion of the Central Registrar the board of any multi-State co-operative society is persistently making default or is negligent in the performance of the duties imposed on it by this Act or the rules or the bye-laws or has committed any act which is prejudicial to the interests of the society or its members, or has omitted or failed to comply with any directions given to it under section 47 or that there is a stalemate in the constitution or functions of the board, the Central Registrar may, after giving the board an opportunity to state its objections, if any, and considering the objections, if received by order, in writing, remove the board and appoint one or more administrators, who need not be members of the society, to manage the affairs of the society for such period not exceeding one year, as may be specified in the order, which period may, at the discretion of the Central Registrar, be extended from time to time; so, however, that the aggregate period does not exceed two years.

(2) The Central Registrar may fix such remuneration for the administrators, as he may think fit and the remuneration shall be paid out of the funds of the multi-State co-operative society.

(3) The administrator shall, subject to the control of the Central Registrar and to such instructions as he may from time to time give, have power to exercise all or any of the functions of the board or of any officer of the multi-State co-operative society and take all such actions as may be required in the interests of the society.

(4) Save as otherwise provided in sub-section (5), the administrator shall, before the expiry of his term of office, arrange for the constitution of a new board in accordance with the bye-laws of the multi-State co-operative society.

(5) If at any time during the period the administrator is in office, the Central Registrar considers it necessary or expedient so to do, he may, by order in writing giving reasons therefor, direct the administrator to arrange for the constitution of a new board for such multi-State co-operative society in accordance with the bye-laws of such society and immediately on the constitution of such board, the administrator shall hand over the management of such society to such newly constituted board and cease to function.

(6) Where a multi-state co-operative society is indebted to any financial institution, the Central Registrar shall, before taking any action, under sub-section (1) in respect of that society, consult the financial institution.

(7) Notwithstanding anything contained in this Act, the Central Registrar shall, in the case of a co-operative bank, if so required in writing by the Reserve Bank in the public interest or for preventing the affairs of the co-operative bank being conducted in a manner detrimental to the interests of the depositors or for securing the proper management of a co-operative bank, pass an order for the supersession of the board of that co-operative bank and for the appointment of an administrator therefor for such period or periods not exceeding five years in the aggregate as may from time to time be specified by the Reserve Bank.

49. *Securing possession of records, etc.*—(1) If—

- (a) the records (including registers and books of accounts) of a multi-State co-operative society are likely to be tampered with or destroyed or the funds or other property of such society are likely to be misappropriated or misapplied; or
- (b) the board of a multi-State co-operative society is reconstituted at a general meeting of the society or
- (c) the board of a multi-state co-operative society is removed by the Central Registrar under sub-section (1) of section 48; or
- (d) a multi-State co-operative society is ordered to be wound up under section 77 and the outgoing members of the board refuse to hand over charge of the records and property of the society to those having, or entitled to receive, such charge,

the Central Registrar may apply to the magistrate within whose jurisdiction the multi-State co-operative society functions for securing the records and property of the society.

(2) On receipt of an application under sub-section (1), the magistrate may, by a warrant, authorise any police officer not below the rank of a sub-inspector to enter and search any place where such records and property are kept or are believed to be kept and to seize such records and property; and the records and property so seized shall be handed over to the new board or administrator of the multi-State co-operative society or the liquidator, as the case may be.

(3) Every such search and seizure shall be made in accordance with the provisions of the Code of Criminal Procedure, 1973 (2 of 1974).

50. *Constitution of body of persons for preparation of list, etc.*—The Central Government shall—

- (a) constitute a body of persons in the manner prescribed for the preparation of a list of persons eligible for appointment to the posts of Chief Executives and other managerial posts in national co-operative societies, the maximum pay-scale of which exceeds such amount as may be prescribed;
- (b) make rules for regulating the recruitment, remuneration, allowances and other conditions of service of officers and other employees of national co-operative societies.

51. *Acts of multi-State co-operative societies not to be invalidated by certain defects.*—No act of a multi-State co-operative society or of any board or any of committee or of any officer of the society shall be deemed to be invalid by reasons only of the existence of any defect in the procedure or in the constitution of the society or of the board or of the committee thereof or in the appointment or election of an officer or on the ground that such officer was disqualified to hold office.

CHAPTER V

PRIVILEGES OF MULTI-STATE CO-OPERATIVE SOCIETIES

52. *Multi-State co-operative society to be body corporate.*—The registration of a multi-State co-operative society shall render it a body corporate by the name under which it is registered having perpetual succession and a common seal, and with power to hold property, enter into contract, institute and defend suits and other legal proceedings and to do all things necessary for the purposes for which it is constituted.

53. *Charge and set off, in respect of share or contribution of interest of members.*—A multi-State co-operative society shall have a charge on the share or contribution or interest in the capital and on the deposits of a member or past or deceased member and on any dividend, bonus or profits payable to a member or past member or the estate of a deceased member in respect of any debt due from such member or past member or the estate of such deceased member to the society, and may set-off any sum credited or payable to a member or past member or the estate of deceased member in or towards payment of any such debt.

54. *Share or contribution or interest not liable to attachment.*—(1) Subject to the provisions of section 53, the share or contribution or interest of a member or past or deceased member in the capital of a multi-State co-operative society shall not be liable to attachment or sale under any decree or order of any court in respect of any debt or liability incurred by such member, and an official assignee or a receiver under any law relating to insolvency shall not be entitled to or have any claim on such share or contribution or interest.

(2) The reserve fund, or the bad debt reserves, or the provident fund of the employees, of a multi-State co-operative society invested by such society in accordance with the provisions of this Act and the rules shall not be liable to attachment under any decree or order of a court in respect of any debt or liability incurred by the society.

55. *Register of members.*—Any register or list of members or shares kept by any multi-State co-operative society shall be *prima facie* evidence of any of the following particulars entered therein namely :—

- (a) the date on which any person entered in such register or list became a member;
- (b) the date on which any such person ceased to be a member.

56. *Admissibility of copy of entry as evidence.*—(1) A copy of any entry in a book of a multi-State co-operative society regularly kept in the course of its business shall, if certified in such manner as may be prescribed, be received in any suit or legal proceedings as *prima facie* evidence of the existence of such entry and shall be admitted as evidence of the matters, transactions and accounts therein recorded in every case where, and to the same extent as, the original entry itself is admissible.

(2) No officer of a multi-State co-operative society and no officer in whose office the books of a multi-State co-operative society are deposited after liquidation shall, in any legal proceedings to which the society or the liquidator is not a party, be compelled to produce any of the society's books or documents the content of which can be proved under this section, or to appear as a witness to prove the matters, transactions and accounts therein recorded, except under an order of a court or an arbitrator made for a special cause.

57. *Exemption from compulsory registration of instruments.*—Nothing in clauses (b) and (c) of sub-section (1) of section 17 of the Registration Act, 1908, (16 of 1908) shall apply to—

- (a) any instrument relating to shares in a multi-state co-operative society not with standing that the assets of the society consist in whole or in part of immovable property; or
- (b) any debenture issued by any such society and not creating, declaring, assigning, limiting or extinguishing any right, title or interest to or in immovable property, except in so far as it entitles the holder thereof to the security afforded by a registered instrument whereby the society has mortgaged, conveyed or otherwise transferred the whole or part of its immovable property or any interest therein to trustees upon trust for the benefit of the holders of such debentures; or
- (c) endorsement upon or transfer of any debenture issued by any such society.

58. *Deduction from salary to meet multi-State co-operative society's claim in certain cases.*—(1) Notwithstanding anything contained in any law for the time being in force, a member of a multi State co-operative society may execute an agreement in favour of that society providing that his employer disbursing his salary or wages shall be competent to deduct every month from the salary or wages payable to him, such amount as may be specified in the agreement and to pay the amount so deducted to the society in satisfaction of any debt or other demand owing by the member to the society.

(2) On the execution of such agreement, the employer disbursing the salary or wages of the members shall, if so required by the multi-State co-operative society by a requisition in writing and so long as the society does not intimate that the whole of such debt or other demand has been paid, make the deduction in accordance with the agreement and pay the amount so deducted to the society within a period of fourteen days of the date on which deduction has been made, as if it were a part of the salary or wages payable on the day as required under the Payment of Wages Act, 1936 (4 of 1936) and such payment shall be valid discharge of the employer for his liability to pay the amount deducted.

(3) If after the receipt of a requisition made under sub-section (2) the employer disbursing the salary or wages of the member at any time fails to deduct the amount specified in the requisition from the salary or wages payable to the member concerned or makes default in remitting the amount deducted to the multi-State co-operative society, the

society shall be entitled to recover any such amount from such employer as arrears of land revenue and the amount so due from such employer shall rank in priority in respect of the liability of such employer equal to that of the salary or wages in arrears.

59. *Government aid to Multi-State Co-operative Societies.*—Notwithstanding anything contained in any law for the time being in force, the Central Government or a State Government may, with a view to promoting co-operative movement,—

- (a) subscribe to the share capital of a multi-State co-operative society;
- (b) give loans or make advances to a multi-State co-operative society;
- (c) guarantee the repayment of principal and payment of interest on debentures issued by a multi-State co-operative society;
- (d) guarantee the repayment of share capital of a multi-State co-operative society and dividends thereon at such rates as may be specified by the Central Government or the State Government;
- (e) guarantee the repayment of principal and payment of interest on loans and advances to a multi-State co-operative society;
- (f) give financial assistance in any other form, including subsidies, to any multi-State co-operative society.

CHAPTER VI

PROPERTIES AND FUNDS OF MULTI-STATE CO-OPERATIVE SOCIETIES

60. *Funds not to be divided by way of profit.*—(1) No part of the funds, other than net profits, of a multi-State co-operative society shall be divided by way of bonus or dividend or otherwise distributed among its members.

(2) The net profits of a multi-State co-operative society referred to in sub-section (1) in respect of a society earning profits shall be calculated by deducting from the gross profits for the year, all interest accrued and accruing in relation to amounts which are overdue, establishment charges, interest payable on loans and deposits, audit fees, working expenses including repairs, rent, taxes and depreciation, bonus payable to employees under the law relating to payment of bonus for the time being in force, and equalisation fund for such bonus, provision for payment of income-tax and making approved donations under the Income-tax Act, 1961, (43 of 1961), development rebate, provision for development fund, bad debt fund, price fluctuation fund, dividend equalisation fund, share capital, redemption fund, investment fluctuation fund, provision for retirement benefits to employees, and after providing for or writing off bad debts and losses not adjusted against any fund created out of profit:

Provided that such society may, add to the net profits for the year, interest accrued in the preceding years, but actually recovered during the year :

Provided further that in case of such multi-State co-operative societies as do not have share capital, the surplus of income over expenditure shall not be treated as net profits and such surplus shall be dealt within accordance with the bye-laws.

61. *Disposal of net profits.*—(1) A multi-State co-operative society shall, out of its net profits in any year—

- (a) transfer an amount not less than twenty-five per cent, to the reserve fund; and
- (b) credit such portion, as may be prescribed, to the co-operative education fund maintained by the National Co-operative Union of India Limited, New Delhi.

(2) Subject to such conditions as may be prescribed, the balance of the net profits may be utilised for all or any of the following purposes, namely :—

- (a) payment of dividend to members on their paid-up share capital at a rate not exceeding the prescribed limit;
- (b) constitution of, or contribution to, such special funds including education funds, as may be specified in the bye-laws;
- (c) donation of amounts not exceeding five per cent, of the net profits for any purpose connected with the development of co-operative movement or charitable purpose as defined in section 2 of the Charitable Endowments Act, 1890 (6 of 1890);
- (d) payment of *ex gratia* amount to employees of the multi-state co-operative society to the extent and in the manner specified in the bye-laws.

(3) The funds of a multi-State co-operative society shall not be utilised for any political purpose.

62. *Investment of funds.*—A multi-State co-operative society may invest or deposit its funds—

- (a) in a co-operative bank, State co-operative bank, co-operative land mortgage bank, co-operative land development bank or Central co-operative bank; or
- (b) in any of the securities specified in section 20 of the Indian Trusts Act, 1882 (2 of 1882); or
- (c) in the shares or securities of any other multi-State co-operative society or any co-operative society; or
- (d) in the shares, securities or assets of any other institution, with the previous approval of the Central Registrar; or
- (e) with any bank; or
- (f) in such other mode as may be prescribed.

Explanation.—In clause (e), “bank” means any banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949 (10 of 1949) and includes,—

- (i) the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955);

- (ii) a subsidiary bank as defined in clause (k) of section 2 of the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959);
- (iii) a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), or a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980).

63. *Restrictions on loans.*—(1) A multi-State co-operative society, other than a co-operative bank, shall not make a loan—

- (a) to a member on the security of his share or on the security of a non-member; or
- (b) to a non-member:

Provided that with the general or special sanction of the Central Registrar, a multi-State co-operative society may make loans to another multi-State co-operative society.

(2) Notwithstanding anything contained in sub-section (1), a multi-State co-operative society may make a loan to a depositor on the security of his deposit.

64. *Restrictions on borrowing.*—A multi-State co-operative society shall receive deposits and loans only to such extent and under such conditions as may be specified in the bye-laws:

Provided that a co-operative bank shall be governed by the provisions of the Banking Regulation Act, 1949 (10 of 1949).

65. *Restrictions on other transactions with non-members.*—Save as provided in sections 63 and 64, the transaction of a multi-State co-operative society with any person other than a member shall be subject to such prohibitions and restrictions, if any, as may be prescribed.

66. *Contributory provident fund.*—(1) A multi-State co-operative society having such number or class of employees as may be prescribed may establish a contributory provident fund for the benefit of such employees to which shall be credited all contributions made by the employees and the society in accordance with the bye-laws of the society.

(2) Monies standing to the credit of any contributory provident fund established by a multi-State co-operative society under sub-section (1) shall not—

- (a) be used in the business of the society;
- (b) form part of the assets of the society;
- (c) be liable to attachment or be subject to any other process of any court or other authority.

(3) Notwithstanding anything contained in this section, a provident fund established by a multi-State co-operative society to which the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), apply shall be governed by that Act.

CHAPTER VII

AUDIT, INQUIRY, INSPECTION AND SURCHARGE

67. *Audit.*—(1) The Central Registrar shall audit, or cause to be audited by a person authorised by him by general or special order in writing in this behalf, the accounts of every multi-State co-operative society at least once in each year.

(2) The audit under sub-section (1) shall include an examination of overdue debts, if any, the verification of the cash balance and securities, and a valuation of the assets and liabilities of the multi-State co-operative society.

(3) The person auditing the accounts of a multi-State co-operative society shall have free access to the books, accounts, papers, vouchers, stock and other property of such society and shall be allowed to verify its cash balance and securities.

(4) The directors, managers, administrators and other officers of the multi-State co-operative society shall furnish to the person auditing the accounts of the society all such information as to its transactions and working as such person may require.

(5) The Central Registrar or the person authorised by him under sub-section (1) to audit the accounts of a multi-State co-operative society shall have power, where necessary—

(a) to summon at the time of the audit any officer, agent, servant or member of the society, past or present, who, he has reason to believe can give valuable information in regard to transactions of the society or the management of its affairs; and

(b) require the production of any book or document relating to the affairs of, or any cash or securities belonging to, the society by any officer, agent, servant, or member of the society in possession of such books, documents, cash or securities and in the event of serious irregularities discovered during audit, to take them into custody.

(6) If at the time of audit the accounts of a multi-State co-operative society are not complete, the Central Registrar or the person authorised by him under sub-section (1) to audit may cause the accounts to be written up at the expense of the society.

(7) Audit fee, if any, due from any multi-State co-operative society shall be determined by the Central Registrar and shall be recoverable in the same manner as is provided in section 89.

68. *Inspection of multi-State co-operative societies.*—(1) The Central Registrar, or any person authorised by him by general or special order in writing in this behalf, may, inspect, a multi-State co-operative society.

(2) (a) For the purpose of inspection under sub-section (1), the Central Registrar or the person authorised by him under that sub-section shall at all times have access to all books, accounts, papers vouchers, securities, stock and other property of that society and may, in the event of serious irregularities discovered during inspection, take them into custody and shall have power to verify the cash balance of the society and subject to the general or special order of the Central Registrar to call a meeting of the board and also a general meeting of the society where such general meeting is, in his opinion, necessary.

(b) Every officer or member of a multi-State co-operative society shall furnish such information with regard to the working of the society as the Central Registrar or the person making such inspection may require.

(3) A copy of the report of inspection under this section shall be communicated to the multi-State co-operative society within a period of three months from the date of completion of such inspection.

69. *Inquiry by Central Registrar.*—(1) The Central Registrar may, of his own motion or on the application of a majority of the members of the board or of not less than one-third of the members, hold an inquiry or direct some person authorised by him by order in writing in this behalf to hold an inquiry into the constitution, working and financial condition of a multi-State co-operative society.

(2) The Central Registrar or the person authorised by him under sub-section (1) shall have the following powers, namely :—

(a) he shall at all reasonable times have free access to the books, accounts, documents, securities, cash and other properties belonging to or in the custody of the multi-State co-operative society and may summon any person in possession or responsible for the custody of any such books, accounts, documents, securities, cash or other properties to produce the same, at any place specified by him;

(b) he may, notwithstanding any rule or bye-law specifying the period of notice for a general meeting of the multi-State co-operative society, require the officers of the society to call general meeting of the society by giving notice of not less than seven days at such time and place at the headquarters of the society to consider such matters, as may be directed by him; and where the officers of the society refuse or fail to call such a meeting, he shall have power to call it himself;

(c) he may summon any person who is reasonably believed by him to have any knowledge of the affairs of the multi-State co-operative society to appear before him at any place at the headquarters of the society or any branch thereof and may examine such person on oath.

(3) Any meeting called under clause (b) of sub-section (2) shall have all the powers of a general meeting of the society called under the bye-laws of the society and its proceedings shall be regulated by such bye-laws.

(4) The Central Registrar shall, within a period of three months of the date of receipt of the report, communicate a brief summary of the report of the inquiry to the multi-State co-operative society, the financial institutions, if any, to which the society is affiliated, and to the person or authority, if any, at whose instance the inquiry is made.

70. *Inspection of books of indebted multi-State co-operative societies.*—(1) The Central Registrar shall, on the application of a creditor of a multi-State co-operative society, inspect, or direct some person authorised by him by order in writing in this behalf to inspect, the books of the society :

Provided that no such inspection shall be made unless the applicant—

(a) satisfies the Central Registrar that the debt is a sum then due, and that he has demanded payment thereof and has not received satisfaction within a reasonable time; and

(b) deposits with the Central Registrar such sum as security for the costs of the proposed inspection as the Central Registrar may require.

(2) The Central Registrar shall communicate the result of any such inspection to the creditor.

71. *Costs of inquiry and inspection.*—Where an inquiry is held under section 69 or an inspection is made under section 70, the Central Registrar may apportion of the costs, or such part of the costs, as he may think fit, between the multi-State co-operative society, the members of creditor demanding an inquiry or inspection, and the officers or former officers and the members or past members to that society :

Provided that—

(a) no order of apportionment of the costs shall be made under this section unless the society or the person liable to pay the costs thereunder has had a reasonable opportunity of being heard;

(b) the Central Registrar shall state in writing under his own hand the grounds on which the costs are apportioned.

72. *Recovery of cost.*—Any sum awarded by way of costs under section 71 may be recovered, on application to a magistrate having jurisdiction in the place where the person, from whom the money is claimable, actually and voluntarily resides or carries on business, and such magistrate shall recover the same as if it were a fine imposed by himself.

73. *Repayment, etc.*—(1) If in the course of an audit, inquiry, inspection or the winding up of a multi-State co-operative society, it is found that any person, who is or was entrusted with the organisation or management of such society or who is or has at any time been an officer or an employee of the society, has made any payment contrary to this Act, the rules or the bye-laws or has caused any deficiency in the assets of the society by breach of trust or wilful negligence or has misappropriated or fraudulently retained any money or other property belonging to such society, the Central Registrar may, of his own motion or on the application of the board, liquidator or any creditor, inquire himself or direct any person authorised by him, by an order in writing in this behalf, to inquire into the conduct of such person within a period of two years from the date of the report of the audit, inspection or inquiry or the date of the order of winding up, as the case may be :

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Provided that where the Central Registrar is satisfied that such inquiry could not be commenced during the period of two years aforesaid on account of fraud or concealment of facts make, or direct the inquiry to be made, within such period not exceeding six years from the date of the report of the audit, inspection or inquiry or the date of the order of winding up, as he may think fit.

(2) Where an inquiry is made under sub-section (1), the Central Registrar may, after giving the person concerned a reasonable opportunity of being heard, make an order requiring him to repay or restore the money or property or any part thereof, with interest at such rate, or to pay contribution and costs or compensation to such extent, as the Central Registrar may consider just and equitable.

CHAPTER VIII

SETTLEMENT OF DISPUTES

74. *Disputes.*—(1) Notwithstanding anything contained in any other law for the time being in force, if any dispute (other than a dispute regarding disciplinary action taken by a multi-State co-operative society against its paid employee or industrial dispute as defined in clause (k) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), touching the constitution, management or business of a multi-State co-operative society arises—

- (a) among members, past members and persons claiming through members, past members and deceased members, or
- (b) between a member, past member or a person claiming through a member, past member or deceased member and the multi-State co-operative society, its board or any officer, agent or employee of the multi-State co-operative society or liquidator, past or present, or
- (c) between the multi-State co-operative society or its board and any past board, any officer, agent or employee, or any past officer, past agent or past employee or the nominee, heirs or legal representatives of any deceased officer, deceased agent, or deceased employee of the multi-State co-operative society, or
- (d) between the multi-State co-operative society and any other multi-State co-operative society, between a multi-State co-operative society and liquidator of another multi-State co-operative society or between the liquidator of one multi-State co-operative society and the liquidator of another multi-State co-operative society,

such dispute shall be referred to the Central Registrar for decision and no court shall have jurisdiction to entertain any suit or other proceedings in respect of such dispute :

Provided that all disputes in which a national co-operative society is a party shall be referred to the Central Registrar or any officer empowered to exercise the powers of the Central Registrar.

(2) For the purposes of sub-section (1), the following shall be deemed to be disputes touching the constitution, management or business of a multi-State co-operative society, namely :

- (a) a claim by the multi-State co-operative society for any debt or demand due to it from a member or the nominee, heirs or legal representatives of a deceased member, whether such debt or demand be admitted or not;
- (b) a claim by a surety against the principal debtor where the multi-State co-operative society has recovered from the surety any amount in respect of any debt or demand due to it from the principal debtor as a result of the default of the principal debtor, whether such debt or demand is admitted or not;
- (c) any dispute arising in connection with the election of any officer of a multi-State co-operative society.

(3) If any question arises whether dispute referred to the Central Registrar is or is not a dispute touching the constitution, management or business of a multi-State co-operative society, the decision thereon of the Central Registrar shall be final and shall not be called in question in any court.

75. *Limitation.*—(1) Notwithstanding anything contained in the Limitation Act, 1963 (36 of 1963) but subject to the specific provisions made in this Act, the period of limitation in the case of a dispute referred to the Central Registrar shall,—

- (a) when the dispute relates to the recovery of any sum including interest thereon due to a multi-State co-operative society by a member thereof, be computed from the date on which such member dies or ceases to be a member of the society;
- (b) save as otherwise provided in clause (c), when the dispute relates to any act or omission on the part of any of the parties referred to in clause (b) or clause (c) of sub-section (1) of section 74, be six years from the date on which the act or omission, with reference to which the dispute arose, took place;
- (c) when the dispute relates to a multi-State co-operative society which has been ordered to be wound up under section 77 or in respect of which an administrator has been appointed under section 48, be six years from the date of the order issued under section 77 or section 84, as the case may be;
- (d) when the dispute is in respect of an election of an officer of a multi-State co-operative society, be one month from the date of the declaration of the result of the election.

(2) The period of limitation in the case of any dispute, except those mentioned in sub-section (1), which are required to be referred to the Central Registrar shall be regulated by the provisions of the Limitation Act, 1963 (36 of 1963), as if the dispute were a suit and the Central Registrar a civil court.

(3) Notwithstanding anything contained in sub-sections (1) and (2), the Central Registrar may admit a dispute after the expiry of the period of limitation, if the applicant satisfies the Central Registrar that he had sufficient cause for not referring the dispute within such period.

76. *Settlement of disputes.*—(1) The Central Registrar may, on receipt of the reference of dispute under section 74,—

- (a) elect to decide the dispute himself; or
- (b) transfer it for disposal to any other person who has been invested by the Central Government with powers in that behalf.

(2) The Central Registrar may withdraw any reference transferred under clause (b) of sub-section (1) and decide it himself or refer the same for decision to any other person who has been invested by the Central Government with powers in that behalf.

(3) The Central Registrar or any other person to whom a dispute is referred for decision under this section may, pending the decision of the dispute, make such interlocutory orders as he may deem necessary in the interest of justice.

CHAPTER IX

WINDING UP OF MULTI-STATE CO-OPERATIVE SOCIETIES

77. *Winding up of multi-State co-operative societies.*—(1) If the Central Registrar, after an inquiry has been held under section 69 or an inspection has been made under section 70, or on receipt of an application made by not less than three-fourths of the members of a multi-State co-operative society, is of opinion that the society ought to be wound up he may, after giving the society a reasonable opportunity of making its representations, by order, direct it to be wound up.

(2) The Central Registrar may, of his own motion and after giving the multi-State co-operative society a reasonable opportunity of making its representations, make an order directing the winding up of the multi-State co-operative society—

- (a) where it is a condition of the registration of the society that the society shall consist of at least fifty members and the number of members has been reduced to less than fifty; or
- (b) where the multi-State co-operative society has not commenced working within a period of six months of the date of its registration or such extended period as the Central Registrar may allow in this behalf or has ceased to function in accordance with co-operative principles.

(3) The Central Registrar may cancel an order for the winding up of a multi-State co-operative society, at any time, in any case where, in his opinion, the society should continue to exist.

(4) A copy of such order shall be communicated by registered post to the multi-State co-operative society and to the financial institutions, if any, of which the society is a member.

(5) Notwithstanding anything contained in this section, no co-operative bank shall be wound up except with the previous sanction in writing of the Reserve Bank.

78. *Winding up of co-operative banks at the direction of Reserve Bank.*—Notwithstanding anything to the contrary contained elsewhere in this Act, the Central Registrar shall make an order for the winding up of a co-operative bank if so required by the Reserve Bank in the circumstances mentioned in section 13D of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (47 of 1961).

79. *Reimbursement to the Deposit Insurance Corporation by liquidator.*—Where a co-operative bank, being an insured bank within the meaning of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (47 of 1961), is wound up and the Deposit Insurance Corporation has become liable to the depositors of the insured bank under sub-section (1) of section 16 of that Act, the Deposit Insurance Corporation shall be reimbursed by the liquidator or such other person in the circumstances, to the extent and in the manner provided in section 21 of that Act.

80. *Liquidator.*—(1) Where the Central Registrar has made an order under section 77 for the winding up of a multi-State co-operative society, the Central Registrar may appoint a liquidator for the purpose and fix his remuneration.

(2) A liquidator shall, on appointment, take into his custody or under his control all the property, effects and actionable claims to which the multi-State co-operative society is or appears to be entitled and shall take such steps as he may deem necessary or expedient to prevent loss or deterioration of, or damage to, such property, effects and claims and he may carry on the business of the multi-State co-operative society so far as may be necessary with the previous approval of the Central Registrar.

(3) Where an appeal is preferred under clause (k) of sub-section (1) of section 90, an order for the winding up of a multi-State co-operative society made under section 77 shall not operate thereafter until the order is confirmed in appeal.

Provided that the liquidator shall continue to have custody or control of the property, effects and actionable claims mentioned in sub-section (2) and have authority to take the steps referred to in that sub-section.

(4) Where an order for the winding up of a multi-State co-operative society is set aside in appeal, the property, effects and actionable claims of the society shall re-vest in the society.

81. *Powers of liquidator.*—(1) Subject to any rules made in this behalf, the whole of the assets of a multi-State co-operative society in respect of which an order for winding up has been made, shall vest in the liquidator appointed under section 80 from the date on which the order takes effect and the liquidator shall have power to realise such assets by sale or otherwise.

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(2) Such liquidator shall also have power, subject to the control of the Central Registrar—

- (a) to institute and defend suits and other legal proceedings on behalf of the multi-State co-operative society by the name of his office ;
- (b) to determine from time to time the contribution (including debts due and costs of liquidation) to be made or remaining to be made by the members or past members or by the estates or nominees, heirs or legal representatives of deceased members or by any officers or former officers, to the assets of the multi-State co-operative society ;
- (c) to investigate all claims against the multi-State co-operative society and subject to the provisions of this Act, to decide questions of priority arising between claimants ;
- (d) to pay claims against the multi-State co-operative society, including interest up to the date of winding up according to their respective priorities, if any, in full or rateably, as the assets of the society may permit ; the surplus, if any, remaining after payment of the claims being applied in payment of interest from the date of such order of winding up at a rate fixed by him but not exceeding the contract rate in any case ;
- (e) to determine by what persons and in what proportions the costs of the liquidation are to be borne ;
- (f) to determine whether any person is a member, past member or nominee of a deceased member ;
- (g) to give such directions in regard to the collection and distribution of the assets of the multi-State co-operative society as may appear to him to be necessary for winding up the affairs of that society ;
- (h) to carry on the business of the multi-State co-operative society so far as may be necessary for the beneficial winding up of the same ;
- (i) to make any compromise or arrangement with creditors or persons claiming to be creditors or having or alleging to have any claim, present or future, whereby the multi-State co-operative society may be rendered liable ;
- (j) to make any compromise or arrangement with any person between whom and the multi-State co-operative society there exists any dispute and to refer any such dispute for decision ;
- (k) after consulting the members of the multi-State co-operative society, to dispose of the surplus, if any, remaining after paying the claims against the society, in such manner as may be prescribed ;
- (l) to compromise all calls or liabilities to calls and debts and liabilities capable of resulting in debts, and all claims, present or future, certain or contingent, subsisting or alleged to be subsisting between the multi-State co-operative society and a contributory or other debtor or person apprehending liability to the multi-State co-operative society and all questions in any way relating to or affecting the assets or the winding up of the society on such terms as may be agreed and take any security for the discharge of any such call, liability, debt or claim and give a complete discharge in respect thereof.

(3) When the affairs of a multi-State co-operative society have been wound up, the liquidator shall make a report to the Central Registrar and deposit the records of the society in such place as the Central Registrar may direct.

82. *Disposal of surplus assets.*—The surplus assets, as shown in the report of a liquidator of a multi-State co-operative society which is wound up,—

- (a) may, if the bye-laws of the multi-State co-operative society specify the purpose for which surplus shall be utilised, be utilised by the Central Registrar for the said purpose, and
- (b) if the bye-laws aforesaid do not specify the purpose, be divided by the Central Registrar, with the previous sanction of the Central Government, amongst the members of such multi-State co-operative society in such manner as may be prescribed.

83. *Priority of contributions assessed by liquidator.*—Notwithstanding anything contained in any law relating to insolvency, the contribution assessed by a liquidator shall rank next to debts due to the Central Government or a State Government or a local authority in accordance with the order of priority in insolvency proceedings.

84. *Power of Central Registrar to cancel registration of multi-State co-operative society.*—(1) The Central Registrar may, after considering the report of the liquidator made to him under sub-section (3) of section 81, order the registration of the multi-State co-operative society to be cancelled and on such cancellation, that society shall stand dissolved.

(2) An order passed under sub-section (1) shall be communicated by registered post to the president of the multi-State co-operative society and to the financial institutions, if any, of which the society was a member.

CHAPTER X

EXECUTION OF DECREES, ORDERS AND DECISIONS

85. *Execution of decisions, etc.*—Every decision or order made under section 30, section 31, section 73, section 76, section 90, section 92 or section 93 shall, if not carried out,—

- (a) on a certificate signed by the Central Registrar or any person authorised by him in writing in this behalf, be deemed to be a decree of a civil court and shall be executed in the same manner as if it were a decree of such court ; or
- (b) where the decision or order provides for the recovery of money, be executed according to the law for the time being in force for the recovery of arrears of land revenue :

Provided that any application for the recovery in such manner of any sum shall be made—

- (i) to the Collector and shall be accompanied by a certificate signed by the Central Registrar or by any person authorised by him in writing in this behalf;
- (ii) within twelve years from the date fixed in the decision or order and if no such date is fixed, from the date of the decision or order, as the case may be; or
- (c) be executed by the Central Registrar or any person authorised by him in writing in this behalf, by attachment and sale or sale without attachment of any property of the person or a multi-State co-operative society against whom the decision or order has been made.

86. *Execution of orders of liquidator.*—Every order made by the liquidator under section 81 shall be executed according to the law for the time being in force for the recovery of arrears of land revenue.

87. *Attachment before award.*—(1) Where the Central Registrar is satisfied that a party to any reference made to him under section 74 with intent to defeat or delay the execution of any decision that may be passed thereon is about to—

- (a) dispose of the whole or any part of the property; or
 - (b) remove the whole or any part of the property from its existing precincts,
- the Central Registrar may, unless adequate security is furnished, direct conditional attachment of the said property or such part thereof as he thinks necessary.

(2) The attachment under sub-section (1) shall be executed by a civil court having jurisdiction in the same way as an attachment order passed by itself and shall have the same effect as such order.

88. *Central Registrar or the person authorised by him to be civil court for certain purposes.*—The Central Registrar or any person authorised by him in writing in this behalf shall be deemed, when exercising any powers under this Act for the recovery of any amount by the attachment and sale or by sale without attachment of any property, or when passing any orders on any application made to him for such recovery or for taking a step in aid of such recovery, to be a civil court for the purposes of article 136 of the Schedule to the Limitation Act, 1963 (36 of 1963).

89. *Recovery of sums due to Government.*—(1) All sums due from a multi-State co-operative society, or from an officer or member or past member of a multi-State co-operative society, to the Central Government or a State Government, including any cost awarded to the Central Government or the State Government, as the case may be, under any provision of this Act, may, on a certificate issued by the Central Registrar in this behalf, be recovered in the same manner as arrears of land revenue.

(2) Sums due from a multi-State co-operative society to the Central Government or a State Government and recoverable under sub-section (1) may be recovered firstly from the property of the society and secondly from the members, past members or the estates of deceased members, subject to the limit of their liability:

Provided that the liability of past members and the estate of deceased members shall in all cases be subject to the provisions of section 28.

CHAPTER XI

APPEALS AND REVISION

90. *Appeals.*—(1) Subject to the provisions of section 91, an appeal shall lie under this section against—

- (a) an order made by the Central Registrar under sub-section (2) of section 7 refusing to register a multi-State co-operative society;
- (b) an order made by the Central Registrar under sub-section (4) of section 9 refusing to register an amendment of the bye-laws of a multi-State co-operative society;
- (c) a decision of a multi-State co-operative society refusing or deemed to be refusing under sub-section (5) of section 19 to admit any person as a member of the society who is otherwise duly qualified for membership under the bye-laws of the society;
- (d) a decision of a multi-State co-operative society under sub-section (1) of section 21 expelling any of its members;
- (e) a decision of a multi-State co-operative society removing an elected member of a board under section 39;
- (f) an order made by the Central Registrar under section 40 removing a member from his office;
- (g) an order made by the Central Registrar under section 48 superseding the board of directors of a multi-State co-operative society;
- (h) an order made by the Central Registrar under section 71 apportioning the costs of an inquiry held under section 69 or an inspection made under section 70;
- (i) an order made under sub-section (2) of section 73;
- (j) a decision or order made under section 76;
- (k) an order made by the Central Registrar under section 77 directing the winding up of a multi-State co-operative society;
- (l) an order made by the liquidator of a multi-State co-operative society under section 81;

(m) an order under section 87 directing attachment of property before award.

(2) An appeal against any decision or order under sub-section (1) shall be made within sixty days from the date of such decision or order,—

(a) if the decision or order was made by the Central Registrar, to the prescribed authority ;

(b) if the decision was made by a multi-State co-operative society (other than a national co-operative society), or a liquidator of such society, to the officer who is empowered to exercise the powers of the Central Registrar under sub-section (2) of section 4 ; or

(c) if the decision was made by a national co-operative society or a liquidator of such society, to the Central Registrar appointed under sub-section (1) of section 4.

(3) The appellate authority may, if satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the period of sixty days, admit the appeal within such further period not exceeding sixty days as that authority may deem fit.

(4) In disposing of an appeal under this section, the appellate authority may, after giving the parties a reasonable opportunity of making their representations, pass such order thereon as that authority may deem fit.

(5) The decision or order of the appellate authority on appeal shall be final.

91. *No appeal or revision in certain cases.*—Notwithstanding anything contained in this Act, where with the previous sanction in writing of, or on requisition by, the Reserve Bank, a co-operative bank —

(a) is being wound up ; or

(b) in respect of which a scheme of amalgamation or reorganisation is given effect to ; or

(c) in respect of which an order for the supersession of the board and the appointment of an administrator therefor has been made,

no appeal, revision or review there against shall lie or be permissible, and the sanction or requisition of the Reserve Bank shall not be liable to be called in question.

92. *Revision.*—(1) Subject to the provisions of section 91, the Central Government may, of its own motion or on an application, call for and examine the records of any proceedings in which no appeal lies to the appellate authority under section 90 for the purpose of satisfying itself as to the legality or propriety of any decision or order made under this Act and if in any case it shall appear to the Central Government that any such decision or order should be modified, annulled or revised or reconsideration, the Central Government may, after giving the party to be affected thereby a reasonable opportunity of being heard, pass such order thereon as it may deem fit :

Provided that the application to the Central Government for the exercise of the power under this section shall be preferred within ninety days from the date on which the decision or order to which the application relates was communicated to the applicant :

Provided further that the Central Government may if satisfied that the appellant was prevented by sufficient cause from making the application within the said period of ninety days, admit the application after the expiry of the said period.

(2) The Central Government may suspend the execution of the decision or order pending the exercise of its power under sub-section (1) in respect thereof.

(3) The Central Government may award costs in proceedings under this section to be paid out of the funds of the multi-State co-operative society concerned or by such party to the application for revision as the Central Government may deem fit.

93. *Review.*—(1) The appellate authority under section 90 may, on the application of any party interested, review its own order in any case and pass in reference thereto such order as it thinks fit :

Provided that no such application shall be entertained unless the appellate authority is satisfied that there has been a discovery of new and important matter or evidence which after exercise of due diligence was not within the knowledge of the applicant or could not be produced by him at the time when the order was made or that there has been some mistake or error apparent on the face of the record or for any other sufficient reason :

Provided further that no such order shall be made under this sub-section unless notice has been given to all interested parties and they have been afforded a reasonable opportunity of being heard.

(2) An application for review under sub-section (1) by any party shall be made within thirty days from the date of communication of the order of the appellate authority sought to be reviewed.

94. *Interlocutory orders.*—Where an appeal is made under section 90 or where the Central Government calls for the records of a case under section 92, the appellate authority or the Central Government, as the case may be, may, in order to prevent the ends of justice being defeated, make such interlocutory orders, including an order of stay, pending the decision of the appeal or revision as such authority or the Central Government may deem fit.

CHAPTER XII

SOCIETIES WHICH BECOME MULTI-STATE CO-OPERATIVE SOCIETIES CONSEQUENT ON REORGANISATION OF STATES

95. *Co-operative societies functioning immediately before reorganisation of State.*—(1) Where by virtue of the provisions of Part II of the States Reorganisation Act, 1956 (37 of 1956), or any other enactment relating to

reorganisation of State, any co-operative society which immediately before the day on which the organisation takes place, had its objects confined to one State becomes, as from that day, a multi-State co-operative society, it shall be deemed to be a multi-State co-operative society registered under the corresponding provisions of this Act and the bye-laws of such society shall, in so far as they are not inconsistent with the provisions of this Act, continue to be in force until altered or rescinded.

(2) If it appears to the Central Registrar or any officer authorised in this behalf by the Central Government (hereafter in this section referred to as the authorised officer) that it is necessary or expedient to reconstitute or reorganise any society referred to in sub-section (1), the Central Registrar or the authorised officer, as the case may be, may, with the previous approval of the Central Government, place before a meeting of the general body of that society, held in such manner as may be prescribed, a scheme for the reconstitution or reorganisation, including proposals regarding—

(a) the formation of new multi-State co-operative societies and the transfer thereto in whole or in part, of the assets and liabilities of that society, or

(b) the transfer, in whole or in part, of the assets and liabilities of that society to any other multi-State co-operative society in existence immediately before the date of that meeting of the general body (hereafter in this section referred to as the existing multi-State co-operative society).

(3) If the scheme is sanctioned by a resolution passed by a majority of the members present at the said meeting, either without modifications or with modifications to which the Central Registrar or the authorised officer agrees, he shall certify the scheme and upon such certification, the scheme shall, notwithstanding anything to the contrary contained in any law, regulation or bye-laws for the time being in force, be binding on all the societies affected by the scheme, as well as the share-holders and creditors of all such societies.

(4) If the scheme is not sanctioned under sub-section (3), the Central Registrar or the authorised officer may refer the scheme to such Judge of the appropriate High Court, as may be nominated in this behalf by the Chief Justice thereof, and the decision of that Judge in regard to the scheme shall be final and shall be binding on all the societies affected by the scheme as well as the shareholders and creditors of all such societies.

Explanation.—In this sub-section, “appropriate High Court” means the High Court within the local limits of whose jurisdiction the principal place of business of the multi-State co-operative society is situated.

(5) Notwithstanding anything contained in this section, where a scheme under sub-section (2) includes any proposal regarding the transfer of the assets and liabilities of any multi-State co-operative society referred to in clause (b) thereof, the scheme shall not be binding on such multi-State co-operative society or the shareholders and creditors thereof, unless the proposal regarding such transfer is accepted by that multi-State co-operative society by a resolution passed by a majority of the members present at a meeting of its general body.

CHAPTER XIII

OFFENCES AND PENALTIES

96. *Offences.*—(1) A multi-State co-operative society or an officer or member thereof wilfully making a false return or furnishing false information, or any person wilfully or without any reasonable excuse disobeying any summons, requisition or lawful written order issued under the provisions of this Act, or wilfully not furnishing any information required from him by a person authorised in this behalf under the provisions of this Act, shall be punishable with fine which may extend to two hundred rupees.

(2) Any employer who without sufficient cause, fails to pay to a multi-State co-operative society the amount deducted by him under section 58 within a period of fourteen days from the date on which such deduction is made, shall without prejudice to any action that may be taken against him under any other law for the time being in force, be punishable with fine which may extend to five hundred rupees.

(3) Any officer or custodian who wilfully fails to hand over custody of books, accounts, documents, records, cash, security and other property belonging to a multi-State co-operative society of which he is an officer or custodian, to a person entitled under section 49, section 67, section 68, section 69, or section 80 shall be punishable with fine which may extend to two hundred rupees and in the case of a continuing breach, with a further fine which may extend to five hundred rupees for every day during which the breach is continued after conviction for the first such breach.

97. *Cognizance of offences.*—(1) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence under this Act.

(2) No prosecution shall be instituted under this Act without the previous sanction of the Central Registrar and such sanction shall not be given without giving to the person concerned a reasonable opportunity to represent his case.

CHAPTER XIV

MISCELLANEOUS

98. *Copy of Act, rules and bye-laws, etc., to be opened to inspection.*—Every multi-State co-operative society shall keep a copy of this Act, the rules and its bye-laws and also a list of its members, open to inspection free of charge at all reasonable time at the registered address of the society.

99. *Power to exempt multi-State co-operative societies from conditions as to registration.*—(1) Notwithstanding anything contained in this Act, the Central Government may, by general or special order, for reasons to be recorded therein, and subject to such conditions, if any, as may be specified therein exempt any multi-State co-operative society or class of such societies from any of the requirement of this Act relating to registration.

(2) (a) The Central Government may, by general or special order and for reasons to be recorded therein,—

(i) exempt any multi-State co-operative society or any class of such societies from any of the provisions of this Act or of the rules; or

(ii) direct that such provisions shall apply to such society or class of societies with such modifications not affecting the substance thereof as may be specified in the order :

Provided that no order shall be made under sub-clause (ii) so as to prejudice the interests of such society or class of such societies without a reasonable opportunity being given to make representation in the matter.

(b) Every order made under clause (a) shall be published in the Official Gazette.

100. Liquidator to be public servant.—Any person appointed as liquidator under the provisions of this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860).

101. Notice necessary in suits.—No suit shall be instituted against a multi-State co-operative society or any of its officers in respect of any act touching the constitution, management or the business of the society until the expiration of ninety days next after notice in writing has been delivered to the Central Registrar or left at his office, stating the cause of action, the name, description and place of residence of the plaintiff and the relief which he claims, and the plaint shall contain a statement that such notice has been so delivered or left.

102. Certain Acts not to apply.—(1) The provisions of the Companies Act, 1956 (1 of 1956) and the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969), shall not apply to multi-State co-operative societies.

(2) The multi-State co-operative societies registered or deemed to be registered under the provisions of this Act shall not indulge in monopolistic and restrictive trade practices, as defined in the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969).

103. Savings of existing multi-State co-operative societies.—(1) Every multi-State co-operative society existing immediately before the commencement of this Act which has been registered under the Co-operative Societies Act, 1912 (2 of 1912) or under any other Act relating to co-operative societies in force, in any State or in pursuance of the provisions of the Multi-unit Co-operative Societies Act, 1942 (6 of 1942) shall be deemed to be registered under the corresponding provision of this Act, and the bye-law of such society shall, in so far as they are not inconsistent with the provisions of this Act, or the rules, continue to be in force until altered or rescinded.

(2) All appointments, rules and orders made, all notifications and notices issued and all suits and other proceedings instituted under any of the Acts referred to in sub-section (1) shall, in so far as they are not inconsistent with the provisions of this Act, be deemed to have been respectively made, issued and instituted under this Act, save that an order made cancelling the registration of a multi-State co-operative society shall be deemed, unless the society has already been finally liquidated, to be an order made under section 77 for its being wound up.

104. Power to amend Second Schedule.—(1) If the Central Government is satisfied that any multi-State co-operative society should be designated as a national co-operative society or any national co-operative society specified, in the Second Schedule should be omitted from the said Schedule, it may, by notification, amend the said Schedule so as to include therein such multi-State co-operative society or exclude therefrom such national co-operative society, and thereupon the said Schedule shall be deemed to have been amended accordingly.

(2) A copy of every notification made under sub-section (1) shall be laid before each House of Parliament as soon as may be after it is made.

105. Bar of jurisdiction of courts.—(1) Save as otherwise provided in this Act, no court shall have jurisdiction in respect of—

(a) the registration of a multi-State co-operative society or its bye-laws or of an amendment of the bye-laws;

(b) the removal of board of directors;

(c) any dispute required under section 74 to be referred to the Central Registrar; and

(d) any matter concerning the winding up and the dissolution of a multi-State co-operative society.

(2) While a multi-State co-operative society is being wound up, no suit or other legal proceedings relating to the business of such society shall be proceeded with or instituted against the liquidator or against the society or any member thereof, except by leave of the Central Registrar and subject to such terms and conditions as he may impose.

(3) Save as otherwise provided in this Act, no decision or order made under this Act shall be questioned in any court.

106. Powers of civil court.—(1) In exercising the functions conferred on him by or under this Act, the Central Registrar, or any other person deciding a dispute under section 76 and the liquidator of a multi-State co-operative society and a person entitled to audit, inspect or hold an inquiry under this Act, shall have all the powers of a civil court, while trying a suit, under the Code of Civil Procedure, 1908 (5 of 1908), in respect of the following namely :—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of any document;

(c) proof of facts by affidavits; and

(d) issuing commissions for examination of witnesses.

(2) In the case of an affidavit, any officer appointed by the Central Registrar, or any other person deciding a dispute or the liquidator, as the case may be, may administer oath to the deponent.

107. Indemnity.—No suit, prosecution or other legal proceedings shall lie against the Central Registrar or any person subordinate to him or acting on his authority or against any other person, in respect of anything in good faith done or purporting to have been done under this Act.

108. Opening of Branches.—(1) Notwithstanding anything contained to the contrary in any law relating to co-operative societies in force in a State, a multi-State co-operative society, not being a co-operative bank may open Branches or places of business in any place in India:

(2) Where a multi-State co-operative society opens branches or places of business in any State under sub-section (1), the Registrar of Co-operative Societies in such State shall not exercise any jurisdiction in relation to such branches or places of business nor shall call for any returns or information therefrom.

109. Power to make rules.—(1) The Central Government may, by notification, made rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

- (i) the form to be used, the particulars to be given and the conditions to be complied with in the making of applications under section 6 for the registration of a multi-State co-operative society and the procedure in the matter of such applications;
- (ii) the number of the applicants and the manner in which the order of refusal to register a multi-State co-operative society and its bye-laws shall be communicated under sub-section (2) of section 7;
- (iii) the manner in which the order of refusal to register any amendment of the bye-laws shall be communicated under sub-section (4) of section 9 and section 18;
- (iv) the procedure and conditions for change in the extent of the liability of a multi-State co-operative society under section 13;
- (v) the matters in respect of which a multi-State co-operative society may make bye-laws and the procedure to be followed in making, altering and abrogating bye-laws under section 9 or section 18 and the conditions to be satisfied prior to such making, alteration or abrogation;
- (vi) the conditions to be complied with under section 19 by persons applying for admission as members, for the election and admission of members and the payment to be made and the interest to be acquired before the exercise of the right of membership;
- (vii) the number of individuals who may be admitted as members of the National Co-operative Union of India Limited, New Delhi as required by section 19 and their qualifications;
- (viii) the withdrawal and expulsion of members and the payments, any, to be made to members who withdraw or are expelled and the liability of past members or the estates of deceased members;
- (ix) the votes of members, as required by section 22;
- (x) the maximum number of shares of a multi-State co-operative society which may, subject to the provisions of section 24, be held by a member;
- (xi) the constitution and powers of a smaller body representing the general body under section 29;
- (xii) general meeting of the members under section 30, the period within which such meeting be called and the procedure at such meetings and the powers to be exercised by such meetings;
- (xiii) the proportion of individuals and multi-State co-operative societies in the constitution of the board of directors and the general body under section 32;
- (xiv) the election of members of the boards under section 35, and nomination of members to such boards under section 41, the appointment or election of Officers and the powers to be exercised and the duties to be performed by the boards and other officers;
- (xv) the restrictions and conditions subject to which honorarium may be paid under section 38 to the elected chairman or president of the board of directors for services rendered;
- (xvi) the additional measures and acts which may be taken or, as the case may be, done by the board under section 42;
- (xvii) the number of meetings of the board, the venue of such meetings and the number of committees or sub-committees for purposes of sections 43 and 46;
- (xviii) the appointment and regulation of work entrusted to persons replacing the board in pursuance of section 48;
- (xix) the constitution of a body of persons under section 50 for the preparation of a list of persons eligible for appointment to the posts of Chief Executives and other management posts in national co-operative societies and the amount of the maximum pay-scale applicable to such posts;
- (xx) the recruitment, remuneration, allowances and other conditions of service of officers and other employees of national co-operative societies under section 50;
- (xxi) prohibiting a multi-State co-operative society from electing a defaulting member, or a representative of defaulting member society, on its board;

- (xxii) the returns to be submitted by a multi-State co-operative society to the Central Registrar, the persons by whom and the form in which such returns shall be submitted and in case of failure to submit any such return, the levy of expenses of preparing it;
- (xxiii) the persons by whom and the form in which copies of entries books of multi-State co-operative societies may be certified under section 56 and the charges to be levied for the supply of such copies;
- (xxiv) the terms and conditions on which the Central Government may make share-capital contribution or give financial or other assistance to multi-State co-operative societies under section 59 and the terms and conditions on which the Central Government may guarantee the payment of the principal or interest on debentures issued by multi-State co-operative societies or loans or deposits raised by them;
- (xxv) the procedure to be followed in proceedings before the Central Registrar or other persons deciding disputes including the appointment of a guardian for a party to the dispute who is a minor or who, by reason of unsoundness of mind or mental infirmity, is incapable of protecting his interests, and the levy of expenses relating to such proceedings;
- (xxvi) the mode in which the value of a deceased member's share or interest shall be ascertained and the nomination of a person to whom such share or interest may be paid or transferred;
- (xxvii) the payments to be made and conditions to be complied with by members applying for loans, the period for which any loans may be made and the maximum amount which may be lent to any members;
- (xxviii) the formation and maintenance of reserve funds and other funds under section 61 and the objects to which such funds may be applied, and the investment of any funds under the control of a multi-State co-operative society under section 62;
- (xxix) the conditions under which profits may be distributed under section 61 to the members of a multi-State co-operative society and the maximum rate of dividend which may be paid by multi-State co-operative societies;
- (xxx) the prohibitions and restrictions subject to which multi-State co-operative societies may, under section 65, transact business with persons who are not members;
- (xxxi) the accounts and books to be kept by a multi-State co-operative society and the audit of such accounts and the charges, if any, to be made for such audit under section 67 and the periodical publication of a balance-sheet showing the assets and liabilities of a multi-State co-operative society;
- (xxxii) the calculation and writing off of bad debts by multi-State co-operative societies;
- (xxxiii) the appointment of persons for settlement of disputes under section 76;
- (xxxiv) the procedure to be followed by a liquidator appointed under section 80 in respect of provisions of section 81;
- (xxxv) the manner in which the surplus assets may be divided amongst the members of the multi-State co-operative society under section 82;
- (xxxvi) the procedure for execution of decisions under section 85;
- (xxxvii) the procedure to be followed in presenting and disposing of appeals under section 90;
- (xxxviii) the issue and service of processes and for proof of service thereof;
- (xxxix) the manner of effecting attachment;
- (xl) the custody, preservation and sale of property under attachment;
- (xli) the investigation of claims by persons other than the defaulter to any right or interest in the attached property, and the postponement of sale pending such investigation;
- (xlii) the immediate sale of perishable articles;
- (xliii) the inspection of documents in the office of the Central Registrar or of any other officer or authority and the levy of fees for granting certified copies of the same;
- (xliv) the manner in which funds may be raised by a multi-State co-operative society or a class of multi-State co-operative societies by means of shares or debentures or otherwise and the quantum of funds so raised;
- (xlv) the procedure under section 95 for reconstitution and re-organisation of societies which become multi-State co-operative societies consequent on re-organisation of a State;
- (xlvi) the method of communicating or publishing any decision or order required to be communicated or published under this Act or the rules;
- (xlvii) the manner and the periodicity of returns of pending cases of registration of multi-State co-operative societies and amendments of bye-laws to be sent by the Central Registrar to the Central Government;
- (xlviii) any other matter which is required to be, or may be, prescribed.

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification to the rule or both Houses agree that the rule should not

made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

110. *Repeal.*—The Multi-unit Co-operative Societies Act, 1942 (6 of 1942), is hereby repealed.

THE FIRST SCHEDULE

[See section 3(f)]

Co-operative principles

1. Membership of a multi-State co-operative society (hereafter in this Schedule referred to as the society) should be voluntary and open, without any social, political, or religious discrimination, to all persons who can make use of its services.
2. In a society other than that with institutional membership, individual member should enjoy equal rights of voting—one member, one vote.
3. (i) Surplus or savings, if any, arising out of the operations of the society belong to the society as a whole, and no individual member has a claim to the surplus.
(ii) The surplus should be utilised for all or any of the following purposes, namely :—
(a) providing for development of the business of the society;
(b) providing services for the common enjoyment of members;
(c) distribution among the members in proportion to their transactions with the society.
4. The society should undertake education of its members, office-bearers and employees and the general public regarding the principles and practice of co-operation.
5. The society should actively co-operate in every practical way with other co-operative societies at local, national or international levels.
6. The share capital of a society shall receive strictly limited rate of interest (that is to say dividend).
7. The affairs of a society should be administered by the management in accordance with democratically expressed will of the members.
8. The management of the society is accountable to its own members.

THE SECOND SCHEDULE

[See sections 3(m) and 104]

List of national co-operative societies

1. National Co-operative Land Development Banks Federation Limited, Hyderabad.
2. National Federation of State Co-operative Banks Limited, Bombay.
3. National Co-operative Union of India Limited, New Delhi.
4. National Agriculture Co-operative Marketing Federation of India Limited, New Delhi.
5. National Co-operative Consumers' Federation of India Limited, New Delhi.
6. National Federation of Co-operative Sugar Factories Limited, New Delhi.
7. National Federation of Industrial Co-operatives Limited, New Delhi.
8. National Co-operative Housing Federation Limited, New Delhi.
9. Indian Farmers' Fertilizer Co-operative Limited, New Delhi.
10. All India Federation of Co-operative Spinning Mills Limited, Bombay.
11. All India Industrial Co-operative Banks' Federation Limited, Bangalore.
12. National Co-operative Dairy Federation of India Limited, New Delhi.
13. Petrofils Co-operative Limited, New Delhi.
14. National Heavy Engineering Co-operative Limited, New Delhi.
15. The All India Handloom Fabrics Marketing Co-operative Society Limited, Bombay.
16. The National Federation of Urban Co-operative Banks and Credit Societies Limited, New Delhi.
17. Krishak Bharati Co-operative Limited, New Delhi.
18. National Federation of Fishermen's Co-operative Limited, Bombay.
19. National Federation of Labour Co-operatives Limited, New Delhi.
20. National Co-operative Tobacco Growers, Federation Limited, Anand.

Assented to on 18th August, 1984

THE INDIAN VETERINARY COUNCIL ACT, 1984

ACT No 52 OF 1984

AN

ACT

to regulate veterinary practice and to provide, for that purpose, for the establishment of a Veterinary Council of India and State Veterinary Councils and the maintenance of registers of the veterinary practitioners and for matters connected therewith.

WHEREAS it is expedient to make provision for the regulation of veterinary practice and to provide, for that purpose, for the establishment of a Veterinary Council of India and State Veterinary Councils and the maintenance

विचार कि
पद के अंत
पन्तु
की प्रपक्ष
प्रपत्र हो
विचार ने

of registers of persons qualified to engage in veterinary practice for the whole of India and for matters connected therewith or ancillary thereto;

AND WHEREAS Parliament has no power to make laws for the State with respect to any of the matters aforesaid except as provided in articles 249 and 250 of the Constitution;

AND WHEREAS in pursuance of clause (1) of article 252 of the Constitution, resolutions have been passed by all the Houses of the Legislatures of the States of Haryana, Bihar, Orissa, Himachal Pradesh and Rajasthan to the effect that the matters aforesaid should be regulated in those States by Parliament by law;

Be it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. *Short title, extend and commencement.*—(1) This Act may be called the Indian Veterinary Council Act, 1984.

(2) It extends, in the first instance, to the whole of the States of Haryana, Bihar, Orissa, Himachal Pradesh and Rajasthan and to all Union territories; and it shall also extend to such other States as may adopt this Act by resolution passed in that behalf in pursuance of clause (1) of article 252 of the Constitution.

(3) It shall come into force in a State or Union Territory to which it extends, or may become extended in future, on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be adopted for different provisions of this Act or for different States or Union territories.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

- (a) "Council" means the Veterinary Council of India established under section 3;
- (b) "member" means a member of the Council;
- (c) "prescribed" means prescribed by rules made under this Act;
- (d) "President" means the President of the Council;
- (e) "recognised veterinary qualification" means any of the veterinary qualifications included in the First Schedule or the Second Schedule;
- (f) "register" means a register maintained under this Act;
- (g) "registered veterinary practitioner" means a person whose name is for the time being duly registered in a register;
- (h) "regulation" means a regulation made under this Act;
- (i) "State Veterinary Council" means a Veterinary Council established under section 32 and includes a Joint State Veterinary Council established in accordance with an agreement under section 33;
- (j) "veterinary institution" means any University or other institution within or without India which grants degrees, diplomas or licences in veterinary science and animal husbandry;
- (k) "veterinary medicine" means modern scientific veterinary medicine in all its branches and includes veterinary surgery and obstetrics;
- (l) "Vice-President" means the Vice-President of the Council.

CHAPTER II

INDIAN VETERINARY COUNCIL

3. *Establishment and composition of the Council.*—(1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf, there shall be established a Council to be called the Veterinary Council of India.

(2) The Council shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract and shall by the said name sue or be sued.

(3) The Council shall consist of the following members, namely:—

- (a) five members to be nominated by the Central Government from amongst Directors of Animal Husbandry (by whatever name called) of those States to which this Act extends;
- (b) four members to be nominated by the Central Government from amongst the heads of veterinary institutions in the States to which this Act extends;
- (c) one member to be nominated by the Indian Council of Agricultural Research;
- (d) the Animal Husbandry Commissioner, Government of India, *ex officio*;

- (e) one member to be nominated by the Central Government to represent the Ministry of the Central Government dealing with animal husbandry;
- (f) one member to be nominated by the Indian Veterinary Association;
- (g) eleven members to be elected from amongst themselves by persons enrolled in the Indian veterinary practitioners register;
- (h) one member to be nominated by the Central Government from amongst the Presidents of the State Veterinary Councils of those States to which this Act extends;
- (i) one member to be nominated by the Central Government from amongst the Presidents of the State Veterinary Associations of those States to which this Act extends;
- (j) Secretary, Veterinary Council of India, *ex-officio*.
- (4) The President and Vice-President shall be elected by the members from amongst themselves in such manner as may be provided by regulations.
- (5) Wherever there is a vacancy in the office of the President, the Vice-President shall discharge the functions of the President.
- (6) The names of persons nominated or elected as members shall be notified by the Central Government in the Official Gazette.
- (7) A person shall not be qualified for nomination or election to the Council unless he holds a recognised veterinary qualification.

4. *Mode of election of members.*—(1) An election under clause (g) of sub-section (3) of section (3) shall be conducted by the Central Government in accordance with such rules as may be made by it in this behalf and any rule so made may provide that pending the preparation of the Indian veterinary practitioners register in accordance with the provisions of this Act, the members referred to in that clause may be nominated by the Central Government instead of being elected as provided therein.

(2) Where any dispute arises regarding any election to the Council, it shall be referred to the Central Government for its decision which shall be final.

5. *Term of office of President, Vice-President and members.*—(1) The President or Vice-President shall hold office for a term not exceeding three years and not extending beyond the expiry of his term as a member.

(2) Subject to the provisions of this section, a member, other than an *ex-officio* member, shall hold office for a term of three years from the date of his election or nomination to the Council or until his successor shall have been duly elected or nominated, whichever is longer.

(3) Members of the Council shall be eligible for re-nomination or re-election.

(4) Where the term of three years is about to expire in respect of any member, a successor may be nominated or elected at any time within three months before the said term expires, but, he shall not assume office until the said term has expired.

6. *Cessation of membership.*—(1) A member shall be deemed to have vacated his office—

- (a) if he is absent without excuse, sufficient in the opinion of the Council, from three consecutive meetings of the Council;
- (b) if he ceases to hold the post from which he has been nominated;
- (c) in the case of a member elected under clause (g) of sub-section (3) of section 3, if he ceases to be a person enrolled in the register;
- (d) if he has been convicted of an offence involving moral turpitude and punishable with imprisonment;
- (e) if he is an undischarged insolvent;
- (f) if he is of unsound mind and stands so declared by a competent court.

(2) On the occurrence of a vacancy referred to in sub-section (1), the President shall forthwith report the fact of such vacancy to the Central Government and thereafter that Government may, subject to the proviso to section 7, take necessary steps to fill such vacancy.

7. *Casual vacancies.*—A casual vacancy in the Council shall be filled by nomination or election, as the case may be, and the person nominated or elected to fill the vacancy shall hold office only for the remainder of the term for which the member whose place he takes was nominated or elected :

Provided that no such casual vacancy occurring within three months of the date of expiry of the normal term of office of a nominated or an elected member need be filled under this section.

8. *Registration.*—(1) The President or Vice-President may at any time resign his office by notice in writing addressed to the Council and delivered to the Secretary and the resignation shall take effect from the date on which it is accepted by the Council or on the expiry of ninety days from the date of receipt of the resignation by the Secretary whichever is earlier.

(2) A member may at any time resign his office by notice in writing addressed to the President and every such resignation shall take effect from the date on which it is accepted by the President or on the expiry of ninety days from the date of receipt of the resignation by the President, whichever is earlier.

9. *Meetings of the Council.*—(1) The Council shall meet at least twice in a year at such time and place as may be appointed by the Council.

(2) The quorum necessary for the transaction of business at a meeting of the Council shall be nine.

(3) The President when present shall preside at every meeting of the Council and in his absence the Vice-President and in the absence of both any other member elected by the members present from amongst themselves shall preside at such meeting.

(4) Save as otherwise provided in this Act, all questions which come up before any meeting of the Council shall be decided by a majority of the members present and voting.

(5) In the case of an equality of votes, the President shall have a casting vote.

(6) Subject to the provisions of sub-sections (1) to (5), the Council shall observe such rules of procedure in regard to transaction of business at its meetings as may be provided by regulations.

10. *Vacancies in the Council not to invalidate acts, etc.*—No act or proceeding of the Council shall be invalid by reason only of the existence of a vacancy in the Council or on account of any defect or irregularity in its constitution.

11. *Appointment of Secretary and other officers or servants.*—(1) The Council may, with the previous sanction of the Central Government, appoint a Secretary (who shall also act as Treasurer unless the Council appoints any other person as Treasurer) and may appoint such other officers and employees as it may deem necessary to carry out the purposes of this Act.

(2) The terms conditions of service of the Secretary, other officers and employees appointed by the Council shall be such as may be provided by regulations.

(3) The Secretary, officers and other employees of the Council shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

(4) All orders and decisions and other instruments of the Council shall be authenticated by the signature of the Secretary or any other officer of the Council duly authorised by it in this behalf.

12. *Executive Committee and other Committees.*—(1) The Council shall appoint from among its members an Executive Committee and may constitute other Committees for such general or specific purposes as the Council considers necessary and may co-opt any person or persons specially qualified to advise on any matter to any Committee other than the Executive Committee.

(2) A Committee constituted under this section shall meet at such time and at such places and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be provided by regulations.

13. *Fees and allowances.*—The President and other members and the members of the Committees (other than the members of the Council) shall be paid such fees and allowances for attending the meetings of the Council and the Committees as may be provided by regulations.

14. *Information to be furnished by the Council and publication thereof.*—(1) The Council shall furnish such reports, copies of its minutes, abstract of its accounts and other information to the Central Government as that Government may require.

(2) The Central Government may publish in such manner as it may think fit any report, copy, abstract or other information furnished to it under this section.

15. *Recognition of veterinary qualifications granted by veterinary institutions in India.*—(1) The veterinary qualifications granted by any veterinary institution in India which are included in the First Schedule shall be recognised veterinary qualifications for the purposes of this Act.

(2) Any veterinary institution in India which grants a veterinary qualification not included in the First Schedule may apply to the Central Government to have such qualification recognised and the Central Government, after consulting the Council, may, by notification in the Official Gazette, amend the First Schedule so as to include such qualification therein and any such notification may also direct that an entry shall be made in the last column of the First Schedule against such veterinary qualification declaring that it shall be a recognised veterinary qualification only when granted after a specified date.

16. *Recognition of veterinary qualifications granted by veterinary institutions in countries with which there is a scheme of reciprocity.*—(1) The veterinary qualifications granted by veterinary institutions outside India which are included in the Second Schedule shall be recognised veterinary qualifications for the purposes of this Act.

(2) The Council may enter into negotiations with the authority in any country outside India which by the law of such country is entrusted with the maintenance of a register of veterinary practitioners, for the setting of a scheme of reciprocity for the recognition of veterinary qualifications, and in pursuance of any such scheme, the Central Government may, by notification in the Official Gazette, amend the Second Schedule so as to include therein the veterinary qualification which the Council has decided should be recognised, and any such notification may also direct that an entry shall be made in the last column of the Second Schedule against such veterinary qualification declaring that it shall be a recognised veterinary qualification only when granted after a specified date.

(3) The Central Government, after consultation with the Council, may, by notification in the Official Gazette, amend the Second Schedule by directing that an entry be made therein in respect of any veterinary qualification declaring that it shall be a recognised veterinary qualification only when granted before a specified date.

(4) Where the Council has refused to recommend any veterinary qualification which has been proposed for recognition by any authority referred to in sub-section (2) and the authority applies to the Central Government in this behalf, the Central Government, after considering such application and after obtaining from the Council a report, if any, as to the reasons for any such refusal, may, by notification in the Official Gazette, amend the Second Schedule so as to include such qualification therein and the provisions of sub-section (2) shall apply to such notification.

17. *Special provisions in certain cases for recognition of veterinary qualifications granted by veterinary institutions in countries with which there is no scheme of reciprocity.*—(1) The Central Government, after consultation with the Council, may, by notification in the Official Gazette, direct that the veterinary qualifications granted by veterinary institutions in any country outside India in respect of which a scheme of reciprocity for the recognition of veterinary qualifications is not in force shall be recognised veterinary qualification for the purposes of this Act or shall be so only when granted after a specified date ;

Provided that veterinary practice by persons possessing such qualifications—

- (a) shall be permitted only if such persons are enrolled as veterinary practitioners in accordance with the law regulating the registration of veterinary practitioners for the time being in force in that country ;
- (b) shall be limited to the institution to which they are attached for the time being for the purpose of teaching, research work, charitable work ; and
- (c) shall be limited to the period specified in this behalf by the Central Government by general or special order.

(2) In respect of any such veterinary qualification, the Central Government, after consultation with the Council, may, by notification in the Official Gazette, direct that it shall be a recognised veterinary qualification only when granted before a specified date.

18. *Power to require information as to courses of study and examinations.*—Every veterinary institution in a State which grants a recognised veterinary qualification shall furnish such information as the Council may from time to time require as to the courses of study and examinations to be undergone in order to obtain such qualification, as to the ages at which such courses of study and examinations are required to be undergone and such qualification is conferred and generally as to the requisites for obtaining such qualification

19. *Inspection of veterinary institutions and examinations.*—(1) A Committee constituted under section 12 may, subject to regulations, if any, made by the Council, appoint such number of veterinary inspectors as it may deem requisite to inspect any veterinary institution or any college or other institution where veterinary education is given or to attend any examination held by any veterinary institution for the purpose of recommending to the Central Government recognition of veterinary qualification granted by that veterinary institution.

(2) The veterinary inspectors shall not interfere with the conduct of any training or examination, but shall report to the Committee on the adequacy of the standards of veterinary education including staff, equipments accommodation, training and other facilities prescribed by regulations for giving veterinary education or on the sufficiency of every examination which they attend.

(3) The Committee shall forward a copy of any such report to the veterinary institution concerned and shall also forward a copy with remarks, if any, of the said institution thereon, to the Central Government.

20. *Appointment of visitors.*—(1) The Council may appoint such number of visitors as it may deem requisite to inspect any veterinary institution or any college or other institution where veterinary education is given or to attend any examination held by any veterinary institution for the purpose of granting any recognised veterinary qualification.

(2) Any person, whether he is a member or not, may be appointed as a visitor under this section, but a person who is appointed as an inspector under section 19 for any inspection or examination shall not be appointed as a visitor for the same inspection or examination.

(3) The visitors shall not interfere with the conduct of any training or examination, but shall report to the President on the adequacy of the standards of veterinary including staff, equipment, accommodation, training and other facilities prescribed by regulations for giving veterinary education or on the sufficiency of every examination which they attend.

(4) The report of a visitor shall be treated as confidential unless in any particular case the President otherwise directs ;

Provided that if the Central Government requires a copy of the report of the visitor, the Council shall furnish the same.

21. *Withdrawal of recognition.*—(1) When upon report by the Committee or the visitor, it appears to the Council—

(a) that the courses of study and examinations to be undergone in, or the proficiency required from candidates at any examination held by, any veterinary institution, are not, in conformity with the regulations made under this Act or fall short of the standards required thereby, or

(b) that the staff, equipment, accommodation, training and other facilities for instruction and training provided in such veterinary institution or in any college or other institution affiliated to it do not conform to the standards prescribed by the Council,

the Council shall make a representation to that effect to the Central Government.

(2) After considering such representation, the Central Government may send it to the State Government of the State in which the veterinary institution is situated and the State Government shall forward it along with such remarks as it may choose to make to the veterinary institution, with an intimation of the period within which that institution may submit its explanation to the State Government.

(3) On receipt of the explanation or, where an explanation is submitted within the period fixed, then on the expiry of that period, the State Government shall make its recommendation to the Central Government.

(4) The Central Government, after making such inquiry, if any, as it may deem fit, may, by notification in the Official Gazette, direct that an entry shall be made in the appropriate Schedule against the said veterinary qualification declaring that it shall be a recognised veterinary qualification only when granted before a specified date or that the said veterinary qualification if granted to students of a specified college or institution affiliated to any veterinary institution shall be a recognised veterinary qualification only when granted before a specified date or, as the case may be, that the said veterinary qualification shall be a recognised veterinary qualification in relation to a specified college or institution affiliated to any veterinary institution only when granted after a specified date ;

Provided that before issuing such notification the Central Government may consult the Indian Council of Agricultural Research.

22. *Minimum standards of veterinary education.*—(1) The Council may, by regulations, specify the minimum standards of veterinary education required for granting recognised veterinary qualifications by veterinary institutions in those States to which this Act extends.

(2) Copies of the draft regulations and of all subsequent amendments thereof shall be furnished by the Council to the State Government concerned and the Council shall, before submitting such regulations or any amendments thereof, as the case may be, to the Central Government for approval, take into consideration the comments of the State Government received within three months from the furnishing of the copies as aforesaid.

(3) The Central Government may, before approving such regulations or any amendments thereof, consult the Indian Council of Agricultural Research.

(4) The Committee constituted under section 12 shall from time to time report to the Council on the efficiency of the regulations and may recommend to the Council such amendments thereof as it may think fit.

CHAPTER III

INDIAN VETERINARY PRACTITIONERS REGISTER

23. *Indian veterinary practitioners register.*—(1) The Council shall, as soon as may be after the commencement of this Act, cause to be maintained in such form and in such manner as may be provided by regulations a register of veterinary practitioners to be known as the Indian veterinary practitioners register which shall contain the names of all persons who possess the recognised veterinary qualifications and who are for the time being enrolled on a State veterinary register of the State to which this Act extends.

(2) It shall be the duty of the Secretary of the Council to keep the Indian veterinary practitioners register in accordance with the provisions of this Act and of any orders made by the Council, and from time to time to revise the register and publish it in the Gazette of India or in such other manner as may be provided by regulations.

(3) Such register shall be deemed to be a public document within the meaning of the Indian Evidence Act, 1872, and may be proved by a copy published in the Gazette of India.

(4) Each State Veterinary Council shall furnish to the Council six printed copies of the State veterinary register as soon as may be after the 1st day of April of each year and each State Veterinary Council shall inform the Council without delay of all additions to, and other amendments in, the State veterinary register made from time to time.

24. *Registration in the Indian veterinary practitioners register.*—The Secretary of the Council may, on receipt of the report of registration of a person in a State veterinary register or on an application made in such form and in such manner, as may be provided by regulations, by any such person, enter his name in the Indian veterinary practitioners register :

Provided that the Secretary is satisfied that the person concerned possesses a recognised veterinary qualification.

25. *Issue of certificate of registration.*—(1) Any person whose name has been entered in that Indian veterinary practitioners register shall, on an application made in this behalf in such form and in such manner and on payment of such fees, not exceeding fifteen rupees, as may be provided by regulations, be entitled to a certificate of registration.

(2) On receipt of an application under sub-section (1), the Council shall grant to the applicant a certificate of registration in such form as may be provided by regulations :

Provided that on the removal of his name from a register, such certificate shall cease to be valid.

(3) Where it is shown to the satisfaction of the Secretary of the Council that a certificate of registration has been lost or destroyed, the Secretary may, on payment of such fees, not exceeding ten rupees, as may be specified by regulations, issue a duplicate certificate in such form as may be specified in the regulations.

26. *Registration of additional qualifications.*—(1) If any person whose name is entered in the Indian veterinary practitioners register obtains any post-graduate degree or diploma in veterinary science in addition to his recognised veterinary qualification, he shall, on an application made in this behalf in such form and in such manner and on payment of such fees, not exceeding fifteen rupees, as may be provided by regulations, be entitled to have an entry stating such degree or diploma made against his name in such register in addition to any entry previously made.

(2) The entries in respect of any such person in a State veterinary register shall be altered in accordance with the alterations made in the Indian veterinary practitioners register.

27. *Removal of names from the Indian veterinary practitioners register.*—If the name of any person enrolled on a State veterinary register is removed therefrom in pursuance of any power conferred under this Act, the Council shall direct the removal of the name of such person from the Indian veterinary practitioners register.

28. *Person enrolled on Indian veterinary practitioners register to notify change of place of residence or practice.*—Every person registered in the Indian veterinary practitioners register shall notify any transfer of the place of his residence or practice to the Council and the State Veterinary Council within ninety days of such transfer, failing which his right to participate in the election of members of the Council or a State Veterinary Council shall be liable to be forfeited by order of the Central Government either permanently or for such period as may be specified therein.

CHAPTER IV

PRIVILEGE OF REGISTERED VETERINARY PRACTITIONARY

29. *Privileges of persons who are enrolled on the Indian veterinary practitioners register.*—Subject to the conditions and restrictions laid down in this Act, every person whose name is for the time being borne on the Indian veterinary practitioners register shall be entitled according to his qualifications to practise as a veterinary practitioner and to recover in due course of law in respect of such practice any expenses, charges in respect of medicaments and other appliances or any fees to which he may be entitled.

30. *Right of persons who are enrolled on the Indian veterinary practitioners register.*—No person, other than a registered veterinary practitioner, shall—

- (a) hold office as veterinary physician or surgeon or any other like office (by whatever name called) in Government or in any institution maintained by a local or other authority ;
- (b) practise veterinary medicine in any State:

Provided that the State Government may, by order, permit a person holding a diploma or certificate of veterinary supervisor, stockman or stock assistant (by whatever name called) issued by the Directorate of Animal Husbandry (by whatever name called) of any State or any veterinary institution in India, to render, under the supervision and direction of a registered veterinary practitioner, minor veterinary services.

Explanation.—“Minor veterinary services” means the rendering of preliminary veterinary aid, like, vaccination, castration and dressing of wounds, and such other types of preliminary aid or the treatment of such ailments as the State Government may, by notification in the Official Gazette, specify in this behalf ;

- (c) be entitled to sign or authenticate a veterinary health certificate or any other certificate required by any law to be signed or authenticated by a duly qualified veterinary practitioner ;
- (d) be entitled to give evidence at any inquest or in any court of law as an expert under section 45 of the Indian Evidence Act, 1872 (1 of 1872), on any matter relating to veterinary medicine.

CHAPTER V

DISCIPLINE

31. *Professional conduct.*—(1) The Council may, by regulations, specify standards of professional conduct and etiquette and a code of ethics for veterinary practitioners.

(2) Regulations made by the Council under sub-section (1) may specify which violations thereof shall constitute infamous conduct in any professional respect, that is to say, professional misconduct, and such provisions shall have effect notwithstanding any thing contained in any other law for the time being in force.

CHAPTER VI

STATE VETERINARY COUNCILS

32. *Establishment and composition of State Veterinary Councils.*—(1) Except where a Joint State Veterinary Council is established in accordance with an agreement made under section 33, the State Government shall establish a State Veterinary Council consisting of the following members, namely:—

- (a) four members elected from among themselves by veterinary practitioners registered in the State veterinary register ;
- (b) the heads of veterinary institutions, if any, in the State, *ex officio* ;
- (c) three members nominated by the State Government ;
- (d) the Director of Veterinary Services of the State (by whatever name called), *ex-officio* ;
- (e) one member to be nominated by the State Veterinary Association, if any ;
- (f) Registrar of the State Veterinary Council , *ex officio*.

(2) The names of persons nominated or elected as members shall be notified by the State Government in the Official Gazette.

(3) A person shall not be qualified for nomination or election as a member of the State Veterinary Council unless he holds a recognised veterinary qualification.

33. *Inter State agreements.*—(1) Two or more State Governments may enter into an agreement to be in force for such period and to be subject to renewal for further periods, if any, as may be specified in the agreement to provide—

- (a) for the establishment of a Joint State Veterinary Council for all participating States ; or
- (b) for the State Veterinary Council of one State to serve the needs of the other participating States.

(2) In addition to such matters as are in this Act specified, an agreement under this section may —

- (a) provided for the apportionment between the participating States of the Expenditure in connection with the State Veterinary Council or Joint State Veterinary Council ;
 - (b) determine which of the participating State Governments shall exercise the several functions of the State Government under this Act and the references in this Act to the State Government shall be construed accordingly ;
 - (c) provide for consultation between the participating State Governments either generally or with reference to particular matters arising under this Act ;
 - (d) make such incidental and ancillary provisions not inconsistent with this Act as may be deemed necessary or expedient for giving effect to the agreement.
- (3) An agreement under this section shall be published in the Official Gazettes of the participating States.

34. Composition of Joint State Veterinary Councils.—(1) A Joint State Veterinary Council shall consist of the following members, namely:—

- (a) two members elected from among themselves by veterinary practitioners registered in the register of each of the participating States ;
- (b) the heads of veterinary institutions, if any, in the participating States, *ex officio* ;
- (c) two members nominated by each participating State Government ;
- (d) the Director of Veterinary Services of each of the participating States, by whatever name called, *ex officio* ;
- (e) one nominee of the State Veterinary Associations, if any, of each of the participating States ;
- (f) Registrar of the Joint State Veterinary Council, *ex officio*.

(2) The names of the persons nominated or elected as members shall be notified by the State Governments in the Official Gazettes of the States.

(3) A person shall not be qualified for nomination or election as a member of the Joint State Veterinary Council unless he holds a recognised veterinary qualification.

35. Incorporation of State Veterinary Councils.—Every State Veterinary Council shall be a body corporate by such name as may be notified by the State Government in the Official Gazette or, in the case of a Joint State Veterinary Council, as may be determined in the agreement, having perpetual succession and a common seal with power to acquire and hold property, both movable and immovable, and shall by the said name sue or be sued.

36. President.—The President of the State Veterinary Council shall be elected by the members of that Council from amongst themselves in such manner as may be prescribed.

37. Mode of elections.—The election under this Chapter shall be conducted in the prescribed manner and where any dispute arises regarding any such election, it shall be referred to the State Government for its decision.

38. Terms of office and casual vacancies.—(1) Subject to the provisions of this section, a member of the State Veterinary Council, other than an *ex officio* member, shall hold office for a term of three years from the date of his election or nomination to the State Veterinary Council or until his successor has been duly elected or nominated, whichever is longer:

Provided that a member of the State Veterinary Council nominated under clause (c) of sub-section (1) of section 32 or clause (c) of sub-section (1) of section 34, shall hold office during the pleasure of the authority nominating him.

(2) Members of the State Veterinary Council shall be eligible for re-election or re-nomination, as the case may be.

(3) An elected or nominated member of the State Veterinary Council shall be deemed to have vacated his office—

- (a) if he is absent without excuse, sufficient in the opinion of the State Veterinary Council, from three consecutive meetings of the State Veterinary Council ;
- (b) if he ceases to hold the office from which he has been nominated ;
- (c) in the case of a member whose name is required to be included in any State veterinary register, if his name is removed from the register ;
- (d) if he has been convicted of an offence involving moral turpitude and punishable with imprisonment ;
- (e) if he is an undischarged insolvent ;
- (f) if he is of unsound mind and stands so declared by a competent court.

(4) No act done by the State Veterinary Council shall be called in question on the ground merely of the existence of any vacancy, or defect, in the establishment of, the State Veterinary Council.

(5) A casual vacancy in the State Veterinary Council shall be filled by fresh election or nomination, as the case may be, and the person elected or nominated to fill the vacancy shall hold office only for the remainder of the term for which the member whose place he takes was elected or nominated.

(6) The State Veterinary Council shall observe such rules of procedure in regard to transaction of business at its meetings as may be prescribed.

39. *Resignation.*—(1) The President of the State Veterinary Council may at any time resign his office by notice in writing addressed to the State Veterinary Council and delivered to the Registrar and the resignation shall take effect from the date on which it is accepted by that Council or on the expiry of ninety days from the date of receipt of the resignation by the Registrar, whichever is earlier.

(2) A member of the State Veterinary Council may at any time resign his office by notice in writing addressed to the President of the State Veterinary Council and every such resignation shall take effect from the date on which it is accepted by the President or on the expiry of ninety days from the date of receipt of the resignation by the President, whichever is earlier.

40. *Executive and other Committees.*—Subject to such conditions and restriction as may be prescribed Veterinary Council may constitute an Executive Committee and other Committees for exercising any power or discharging any duty of the State Veterinary Council or for inquiring into, reporting with respect to, or advising on, any matter which the State Veterinary Council may refer to them.

41. *Fees and allowances.*—The President and other members of the State Veterinary Council and the members of the Committees (other than the members of the State Veterinary Council) shall be paid such fees and allowances for attending the meetings of the State Veterinary Council and the Committees as may be prescribed.

42. *Appointment of Registrar and other officers or servants.*—(1) The State Veterinary Council may, with the previous sanction of the State Government, appoint a Registrar who shall also act as Treasurer unless the State Veterinary Council appoints any person as Treasurer and may appoint such other offices and employees as it may deem necessary to carry out the purposes of this Act.

(2) The terms and conditions of service of the Registrar, and of the other officers and employees appointed by the State Veterinary Council shall be such as may be prescribed.

(3) The Registrar and other officers and employees of the State Veterinary Council shall be deemed to be public servants within the meaning of section 21 (45) of 1860 of the Indian Penal Code.

(4) All orders and decisions and other instruments of the State Veterinary Council shall be authenticated by the signature of the Registrar or any other officer of the State Veterinary Council duly authorised by it in this behalf.

(5) Notwithstanding anything contained in sub-section (1), for the first two years from the first constitution of the State Veterinary Council the Registrar of the State Veterinary Council shall be a person appointed by the State Government, who shall hold office during the pleasure of the State Government.

43. *Information to be furnished by State Veterinary Council.*—(1) The State Veterinary Council shall furnish such reports, copies of its minutes and of the minutes of the Executive Committee and abstract of its accounts to the State Government as the State Government may from time to time require and shall forward to the Council copies of all material so furnished to the State Government.

(2) The State Government may publish in such manner as it thinks fit any report, copy or abstract furnished to it under this section.

CHAPTER VII

REGISTRATION

44. *Preparation and maintenance of State veterinary practitioners register.*—(1) The State Government shall as soon as may be cause to be prepared in the manner hereinafter provided a register of veterinary practitioners to be known as the State veterinary register for the State.

(2) The State Veterinary Council shall on its establishment assume the duty of maintaining the State Veterinary register in accordance with the provisions of this Act.

(3) The State veterinary register shall contain the names of the persons possessing the recognised veterinary qualifications.

(4) The State veterinary register shall include the following particulars, namely:—

(a) the full name, nationality and residential address of the registered person ;

(b) the date of his admission in the State veterinary register ;

(c) his qualification for registration and the date on which he obtained such qualification and authority which conferred it ;

(d) his professional address ; and

(e) such further particulars as may be prescribed.

45. *First preparation of register.*—(1) For the purpose of first preparing the State veterinary register, the State Government shall, by notification in the Official Gazette, constitute a Registration Tribunal consisting of three persons holding recognised veterinary qualifications and shall also appoint a Registrar who shall act as Secretary of the Tribunal.

(2) The State Government shall, by the same or a like notification, appoint a date on or before which application for registration, which shall be accompanied by the prescribed fee, not exceeding twenty-five rupees, shall be made to the Registration Tribunal.

(3) The Registration Tribunal shall examine every application received on or before the appointed date, and, if it is satisfied that the applicant is qualified for registration under section 45, shall direct the entry of the name of the applicant on the register.

(4) The register so prepared shall thereafter be published in such manner as the State Government may direct, and any person aggrieved by a decision of the Registration Tribunal expressed or implied in the register as so published may, within sixty days from the date of such publication, appeal to an authority appointed by the State Government in this behalf by notification in the Official Gazette.

(5) The Registrar shall amend the register in accordance with the decisions of the authority appointed under sub-section (4) and shall thereupon issue to every person whose name is entered in the register a certificate of registration in the prescribed form.

(6) Upon the establishment of the State Veterinary Council, the register shall be given into its custody, and the State Government may direct that all or any specified part of the application fees for registration in the first register shall be paid to the credit of the State Veterinary Council.

46. Qualifications for entry on preparation of register.—A person shall be entitled, on payment of the prescribed fee not exceeding twenty-five rupees, to have his name entered on the State veterinary register if he resides in the State and if he holds a recognised veterinary qualification.

47. Scrutiny of applications for registration.—(1) After the date appointed for the receipt of applications for registration under sub-section (2) of section 45, all applications for registration shall be addressed to the Registrar of the State Veterinary Council and shall be accompanied by the prescribed fee not exceeding twenty-five rupees.

(2) If upon such application the Registrar of the State Veterinary Council is of the opinion that the applicant is entitled to have his name entered on the State veterinary register, he shall enter thereon the name of the applicant:

Provided that no person, whose name has under the provisions of this Act been removed from the State veterinary register of any State, shall be entitled to have his name entered on the State veterinary register of another State except with the approval of the State Veterinary Council from whose register his name was removed.

(3) Any person whose application for registration is rejected by the Registrar of the State Veterinary Council may, within three months from the date of such rejection, appeal to the State Veterinary Council.

(4) A person aggrieved by the decision of the State Veterinary Council under sub-section (3) may, within sixty days from the communication to him of such decision, appeal to the State Government.

(5) Upon entry in the State veterinary register of a name under this section, the Registrar of the State Veterinary Council shall issue a certificate of registration in the prescribed form.

48. Renewal fees.—(1) The State Government may, by notification in the Official Gazette, direct that for the retention of a name in the State veterinary register, there shall be paid in every five years to the State Veterinary Council such renewal fee, not exceeding fifteen rupees, as may be prescribed and where such direction has been made, such renewal fee shall be due to be paid before the 1st day of April of the year to which it relates.

(2) Where a renewal fee is not paid within the said period, the Registrar of the State Veterinary Council shall remove the name of the defaulter from the State veterinary register:

Provided that a name so removed may be restored to the said register on payment of renewal fee in such manner as may be prescribed.

(3) On payment of the renewal fee, the Registrar of the State Veterinary Council shall issue a certificate of renewal and such certificate shall be proof of renewal of registration.

49. Removal from the register.—(1) Subject to the provisions of this section, the State Veterinary Council may order that the name of any person shall be removed from the State Veterinary register where it is satisfied after giving that person a reasonable opportunity of being heard and after such further inquiry, if any, as it may think fit to make—

(a) that his name has been entered in the State veterinary register by error or on account of mis-representation or suppression of a material fact, or

(b) that he has been convicted of an offence involving moral turpitude and punishable with imprisonment or has been guilty of any infamous conduct in any professional respect or has violated the standards of professional conduct or a code of ethics or the code of ethics which in the opinion of the State Veterinary Council renders him unfit to be kept in the said register.

(2) An order under sub-section (1) may direct that any person whose name is ordered to be removed from the State veterinary register shall be ineligible for registration under this Act, either permanently or for such period of years as may be specified.

(3) An order under sub-section (1) shall not take effect until the expiry of three months from the date thereof or until an appeal, if any, on such order is finally disposed of, whichever date is later.

(4) A person aggrieved by an order under sub-section (1) may, within sixty days from the communication to him of such order, appeal to the Council.

(5) A person aggrieved by the decision of the Council under sub-section (4) may, within sixty days from the communication to him of such decision, appeal to the Central Government.

(6) A person whose name has been removed from the register under this section or under sub-section (2) of section 48 shall forthwith surrender his certificate of registration and certificate of renewal, if any, to the Registrar of the State Veterinary Council and the name so removed shall be published in the Official Gazette.

(7) A person whose name has been removed from the State veterinary register under this section or sub-section (2) of section 48 shall not be entitled to have his name registered in the State veterinary register or in any other State veterinary register, except with the approval of the State Veterinary Council from whose register his name has been removed.

50. *Restoration to State veterinary register.*—The State Veterinary Council may, at any time for reasons appearing to it sufficient and subject to approval of the Council, order that upon payment of the prescribed fee not exceeding twentyfive rupees, the name of a person removed from state veterinary register shall be restored thereto.

51. *Printing of State veterinary register.*—As soon as may be after the 1st day of April each year, the Registrar of the State Veterinary Council shall cause to be printed copies of the state veterinary register as it stood on the said date and such copies shall be made available to persons applying therefor on payment of the prescribed charge not exceeding ten rupees and shall be evidence that on the said date the persons whose names are entered therein were registered veterinary practitioners.

CHAPTER VIII

MISCELLANEOUS

52. *Transfer of registration.*—Where a registered veterinary practitioner of one State is practising veterinary medicine in another State, he may, on payment of prescribed fee which shall not exceed the renewal fee for registration in such other State, make an application in the prescribed form to the Council for the transfer of his name from the State veterinary register of the State where he is registered to the State veterinary register of the State in which he is practising veterinary medicine, and on receipt of any such application, the Council shall, notwithstanding anything contained elsewhere in this Act, direct that the name of such person be removed from the first mentioned State veterinary register and entered in the State veterinary register of the second-mentioned State and the State Veterinary Councils concerned shall comply with such direction:

Provided that such a person shall be required to produce a certificate to the effect that all dues in respect of his registration in the former State have been paid:

Provided further that where any such application for transfer is made by a veterinary practitioner against whom any disciplinary proceeding is pending or where for any other reason it appears to the Council that the application for transfer has not been made *bona fide* and the transfer should not be made, the Council may, after giving the veterinary practitioner a reasonable opportunity of making a representation in this behalf, reject the application.

53. *Bar of jurisdiction.*—No order refusing to enter a name in a register or removing a name from a register shall be called in question in any court.

54. *Issue of duplicate certificates.*—Where it is shown to the satisfaction of the Registrar of the State Veterinary Council that a certificate of registration or a certificate of renewal has been lost or destroyed, the Registrar may, on payment of the prescribed fee, not exceeding ten rupees, issue a duplicate certificate in the prescribed form.

55. *Penalty for falsely claiming to be registered.*—If any person whose name is not for the time being entered in a register falsely represents that it is so entered or uses in connection with his name or title any words or letters reasonably calculated to suggest that his name is so entered, he shall be punishable on first conviction with fine which may extend to five hundred rupees, and on any subsequent conviction with imprisonment which may extend to six months or with fine not exceeding one thousand rupees or with both.

56. *Misuse of titles.*—If any person,—

(a) not being a person registered in a register, takes or uses the description of a veterinary practitioner, or

(b) Not possessing a recognised veterinary qualification, uses a degree or a diploma or a licence or an abbreviation indicating or implying such qualification;

he shall be punishable on first conviction with fine which may extend to one thousand rupees, and on any subsequent conviction with imprisonment which may extend to six months or with fine not exceeding five thousand rupees or with both.

57. *Practice by unregistered persons.*—(1) After the expiry of one year from the date appointed under sub-section (2) of section 45, no person, other than a registered veterinary practitioner or a person permitted by the State Government under the proviso to clause (b) of section 30 shall practise veterinary medicine or render minor veterinary services, as the case may be, in that State.

(2) If any person contravenes the provisions of sub-section (1), he shall be punishable on first conviction with fine which may extend to one thousand rupees, and on any subsequent conviction with imprisonment which may extend to six months or with fine not exceeding five thousand rupees or with both.

58. *Failure to surrender certificate of registration.*—If any person whose name has been removed from a register fails without sufficient cause forthwith to surrender his certificate of registration or certificate of renewal, or both, he shall be punishable with fine which may extend to five hundred rupees and in case of a continuing offence with an additional fine which may extend to ten rupees per day after the first day during which the offence continues.

59. *Cognizance of offence.*—No court shall take cognizance of any offence punishable under this Act except upon complaint made by order of the State Government or State Veterinary Council.

60. *Bar of suit and other legal proceedings.*—No suit or other legal proceedings shall lie against the Central Government or the State Government or the Council or a State Veterinary Council in respect of anything which is in good faith done or intended to be done in pursuance of this Act, or of any rules, regulations or orders made thereunder.

61. *Payment of part of fees to Council.*—The State Veterinary Council shall, before the end of June in each year, pay to the Council a sum equivalent to one-fourth of the total fees realised by the State Veterinary Council under this Act during the period of twelve months ending on the 31st day of March of that year.

62. *Accounts and audit.*—(1) The Council shall maintain appropriate accounts and other relevant records and prepare an annual statement of accounts including the balance sheet, in accordance with such general directions as may be issued and in such form as may be specified by the Central Government in consultation with the Comptroller and Auditor General of India.

(2) The accounts of the Council shall be audited annually by the Comptroller and Auditor-General of India or any person appointed by him in this behalf and any expenditure incurred by him or any person so appointed in connection with such audit shall be payable by the Council to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Council shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the audit of Government accounts, and, in particular, shall have the right to demand the production of books of accounts, connected vouchers and other documents and papers and to inspect the office of the Council.

(4) The accounts of the Council as certified by the Comptroller and Auditor-General of India or any person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

(5) A copy of the accounts of the Council as so certified together with the audit report thereon shall be forwarded simultaneously to the Council.

63. *Appointment of Commission of Inquiry.*—(1) Whenever it appears to the Central Government that the Council is not complying with any of the provisions of this Act, the Central Government may appoint a Commission of Inquiry consisting of three persons, two of whom shall be appointed by the Central Government, one being the Judge of a High Court and one by the Council and refer to it the matter on which the inquiry is to be made.

(2) The Commission shall proceed to inquire in a summary manner and report to the Central Government on the matters referred to it together with such remedies, if any, as the Commission may like to recommend.

(3) The Central Government may accept the report or remit the same to the Commission for modification or reconsideration.

(4) After the report is finally accepted, the Central Government may order the Council to adopt the remedies so recommended within such time as may be specified in the order and if the Council fails to comply within the time so specified, the Central Government may pass such order or take such action as may be necessary to give effect to the recommendations of the Commission.

(5) Whenever it appears to the State Government that the State Veterinary Council is not complying with any of the provisions of this Act, the State Government may likewise appoint a similar Commission of inquiry in respect of the State Veterinary Council to make inquiry in like manner and pass such orders or take such action as specified in sub-sections (3) and (4).

64. *Power of Central Government to make rules.*—(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of Chapters II, III, IV and V.

(2) Every rule made by the Central Government under this Act shall be laid, as soon as may be, after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, or both Houses agree that the rule should not be made, the rule shall, thereafter, have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

65. *Power of state Government to make rules.*—(1) The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of Chapters VI, VII and VIII.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner in which the President of the State Veterinary Council shall be elected under section 36;

(b) the manner in which election under Chapter VI shall be conducted;

(c) the procedure to be observed by the State Veterinary Council at its meetings under sub-section (6) of section 38;

(d) the conditions and restrictions with respect to the constitution of Executive Committee and other Committees under section 40;

(e) the fees and allowances for attending the meetings of the State Veterinary Council and the Committees under section 41;

- (f) the terms and conditions of appointment of the Registrar, other officers and employees of the State Veterinary Council under sub-section (2) of section 42;
- (g) the particular to be included in the State veterinary register under clause (e) of sub-section (4) of section 44 ;
- (h) the fee which shall be accompanied by an application for registration under sub-section (2) of section 45 and sub-section (1) of section 47 ;
- (i) the form of certificate of registration under sub-section (5) of section 45 and sub-section (5) of section 47 ;
- (j) the fee payable under section 46, section 50, section 52 and section 54 ;
- (k) the renewal fee under sub-section (1) of section 48 ;
- (l) the manner of payment of renewal fee under the proviso to sub-section (2) of section 48 ;
- (m) the charge for supplying printed copies of the State veterinary register under section 51 ;
- (n) the form of duplicate certificate under section 54 ;
- (o) any other matter which is to be or may be prescribed under Chapters VI, VII and VIII.

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or, where such Legislature consists of one House, before that House.

66. *Power to make regulations.*—(1) The Council may, with the previous approval of the Central Government, make regulations, not inconsistent with the provisions of this Act and the rules made under section 64, to carry out the purposes of Chapters II, III, IV and V.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

- (a) the manner in which the President and Vice-President shall be elected under sub-section (4) of section 3 ;
- (b) the procedure to be observed respectively by the Council and the Committee at their meeting under sub-section (6) of section 9 and sub-section (2) of section 12 ;
- (c) the terms and conditions of appointment of the Secretary, other officers and employees of the Council under sub-section (2) of section 11 ;
- (d) the fees and allowances for attending the meetings of the Council and the Committees under section 13 ;
- (e) the form and manner in which the Indian veterinary practitioners register shall be maintained under sub-section (1) of section 23 ;
- (f) the manner of keeping the Indian veterinary practitioners register under sub-section (2) of section 23 ;
- (g) the form and manner in which an application may be made under section 24 ;
- (h) the form of application and the fee payable under sub-section (1) of section 25 ;
- (i) the form of certificate of registration under sub-section (2) of section 25 ;
- (j) the fee payable under sub-section (3) of section 25 ;
- (k) the form of duplicate certificate under sub-section (3) of section 25 ;
- (l) the form and manner in which an application may be made and the fee payable under sub-section (1) of section 26 ;
- (m) the standards of professional conduct and etiquette and code of ethics to be observed by veterinary practitioners under sub-section (1) of section 31 ;
- (n) any other matter for which under this Act provision may be made by regulations.

(3) Every regulation shall, as soon as may be after it is made by the Council, be forwarded to the Central Government and that Government shall cause a copy of the same to be laid before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall, thereafter, have effect only in such modified form or be of no effect, as the case may be ; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.

67. *Repeal and saving.*—As from the commencement of this Act in any State, every other Act relating to any matter contained in this Act and in force in that State shall, to the extent to which that Act or any provision contained therein corresponds, or is repugnant, to this Act or any provision contained in this Act, stand repealed and the provisions of section 6 of the General Clauses Act, 1897 (10 of 1897), shall apply to such repeal as if such other Act were a Central Act.

THE FIRST SCHEDULE

[See section 2(e) and section 15]

RECOGNISED VETERINARY QUALIFICATION GRANTED BY UNIVERSITIES OR VETERINARY INSTITUTIONS IN INDIA

Sl.	University or veterinary institution	Recognised veterinary qualification	Abbreviation for registration
1	2	3	4
DEGREE:			
1.	Agra University	Bachelor of Veterinary Science and Animal Husbandry	B.V.Sc. & A.H.
2.	Andhra Pradesh Agricultural University.	Bachelor of Veterinary Science	B. V. Sc.
		Bachelor of Veterinary Science and Animal Husbandry	B.V.Sc. & A.H.
3.	Assam Agricultural University	Bachelor of Veterinary Science and Animal Husbandry	B. V. Sc. & A.H.
4.	Bidhan Chandra Krishi Viswa Vidyalaya.	Bachelor of Veterinary Science and Animal Husbandry	B. V. Sc. & A.H.
5.	University of Bihar	Bachelor of Veterinary Science and Animal Husbandry	B. V. Sc. & A.H.
6.	University of Bombay	Bachelor of Science (Vet.) Bachelor of Veterinary Science and Animal Husbandry	B.Sc. (Vet.) B. V. Sc. & A.H.
7.	University of Calcutta	Bachelor of Veterinary Science Bachelor of Veterinary Science	B.V. Sc. B.V.Sc.
		Bachelor of Veterinary Science and Animal Husbandry	B. V. Sc. & A.H.
8.	University of Calicut	Bachelor of Veterinary Science	B. V. Sc.
9.	Chandra Shekhar Azad University of Agriculture and Technology	Bachelor of Veterinary Science and Animal Husbandry	B.V. Sc. & A.H.
10.	Gauhati University	Bachelor of Veterinary Science and Animal Husbandry	B.V. Sc. & A.H.
11.	Govind Ballabh Pant University of Agriculture and Technology	Bachelor of Veterinary Science and Animal Husbandry	B. V. Sc. & A.H.
12.	Gujarat Agricultural University	Bachelor of Veterinary Science and Animal Husbandry	B. V. Sc. & A.H.
13.	Haryana Agricultural University	Bachelor of Veterinary Science and Animal Husbandry	B. V. Sc. & A.H.
		Bachelor of Veterinary Animal Science	B. V. A. Sc.
14.	University of Jabalpur	Bachelore of Veterinary Science	B. V. Sc.
		Bachelore of Veterinary Science and Animal Husbandry	B. V. Sc. & A.H.
15.	Jawaharlal Nehru Krishi Vishwa Vidyalaya	Bachelor of Veterinary Science and Animal Husbandry	B. V. Sc. & A. H.
16.	Kerala Agricultural University	Bachelor of Veterinary Science and Animal Husbandry Bachelore of Veterinary Science	B. V. Sc. & A.H. B.V. Sc.
17.	University of Kerala	Bachelor of Veterinary Science	B. V. Sc.
18.	Konkan Krishi Vidyapeeth	Bachlor of Veterinary Science and Animal Husbandry	B. V. Sc. & A. H.
19.	University of Madras	Bachelor of Veterinary Science	B. V. Sc.
20.	Magadh University	Bachelor of Veterinary Science and Animal Husbandry	B. V. Sc. & A. H.
21.	Maharashtra Agricultural University	Bachelor of Veterinary Science and Animal Husbandry	B. V. Sc. & A. H.
22.	Mahatma Phule Krishi Vidyapeeth	Bachelor of Veterinary Science Bachelor of Veterinary Science and Animal Husbandry	B. V. Sc. B. V. Sc. & A. H.
23.	Marathwada Krishi Vidyapeeth	Bachelor of Veterinary Science and Animal Husbandry	B. V. Sc. & A. H.
24.	University of Mysore	Bachelor of Veterinary Science	B. V. Sc.

1	2	3	4
25. Nagpur University	Bachelor of Veterinary Science	B. V. Sc.	
	Bachelor of Veterinary Science and Animal Husbandry	B. V. Sc. & A. H.	
	Bachelor of Science (Vet.)	B. Sc. (Vet.)	
26. Orissa University of Agriculture and Technology.	Bachelor of Veterinary Science and Animal Husbandry	B. V. Sc. & A. H.	
27. Osmania University	Bachelor of Veterinary Science	B. V. Sc.	
	Bachelor of Veterinary Science and Animal Husbandry	B. V. Sc. & A. H.	
28. Punjab University Lahore (1942—Aug. 1947)	Bachelor of Veterinary Science	B. V. Sc.	
29. East Punjab University, Solan (1948—54)	Bachelor of Veterinary Science	B. V. Sc.	
30. Punjab University, Chandigarh (1954—62)	Bachelor of Veterinary Science	B. V. Sc.	
	Bachelor of Veterinary Science and Animal Husbandry	B. V. Sc. & A. H.	
31. Punjab Agricultural University	Bachelor of Veterinary Science and Animal Husbandry	B. V. Sc. & A. H.	
32. Punjabrao Kishi Vidyapeeth	Bachelor of Veterinary Science and Animal Husbandry	B. V. Sc. & A. H.	
33. Rajasthan Agricultural University	Bachelor of Veterinary Science and Animal Husbandry	B. V. Sc. & A. H.	
34. University of Rajasthan	Bachelor of Veterinary Science and Animal Husbandry	B. V. Sc. & A. H.	
35. Rajendra Agricultural University	Bachelor of Veterinary Science and Animal Husbandry	B. V. Sc. & A. H.	
36. Ranchi University	Bachelor of Veterinary Science and Animal Husbandry	B. V. Sc. & A. H.	
37. Sardar Patel University	Bachelor of Veterinary Science and Animal Husbandry	B. V. Sc. & A. H.	
38. University of Saurashtra	Bachelor of Veterinary Science	B. V. Sc.	
39. Sri Venkateswara University	Bachelor of Veterinary Science	B. V. Sc.	
40. Tamil Nadu Agricultural University	Bachelor of Veterinary Science	B. V. Sc.	
41. University of Udaipur	Bachelor of Veterinary Science and Animal Husbandry.	B. V. Sc. & A. H.	
42. University of Agricultural Sciences, Hebbal.	Bachelor of Veterinary Science	B. V. Sc.	
43. Uttar Pradesh Agricultural University, Pantnagar.	Bachelor of Veterinary Science and Animal Husbandry	B. V. Sc. & A. H.	
44. Utkal University	Bachelor of Veterinary Science and Animal Husbandry	B. V. Sc. & A. H.	
45. Vikram University	Bachelor of Veterinary Science and Animal Husbandry	B. V. Sc. & A. H.	
46. Mohan Lal Sukhadia University	Bachelor of Veterinary Science and Animal Husbandry	B. V. Sc. & A. H.	
DIPLOMAS :			
1. Assam Veterinary College	Graduate in Veterinary Science	G. V. Sc.	
	Graduate in Veterinary Science and Animal Husbandry.	G. V. Sc. & A. H.	
2. Bengal Veterinary College	Graduate of Bengal Veterinary College	G. B. V. C.	
	Graduate in Veterinary Science	G. V. Sc.	
3. Bihar Veterinary College	Graduate of Bihar Veterinary College	G. B. V. C.	
4. Bombay Veterinary College	Graduate of Bombay Veterinary College	G. B. V. C.	
5. Madras Veterinary College	Graduate of Madras Veterinary College	G. M. V. C.	
6. Punjab Veterinary College	Licensed Veterinary Practitioner (conferred before 15-8-1947)	L.V.P.	

THE SECOND SCHEDULE

[See section 2(e) and section 16]

RECOGNISED VETERINARY QUALIFICATIONS GRANTED BY INSTITUTIONS OUTSIDE INDIA

Country and institution	Recognised veterinary qualification	Abbreviation for registration
1	2	3
UNITED KINGDOM :		
1. Royal College of Veterinary Surgeons	Member of the Royal College of Veterinary Surgeons	M. R. C. V. S.
2. University of Bristol	Bachelor of Veterinary Science	B. V. Sc.
3. University of Cambridge	Bachelor of Veterinary Science	B.V.Sc.
4. University of Edinburgh	Bachelor of Veterinary Science	B. V. Sc.
5. University of Glasgow	Bachelor of Veterinary Science	B V. Sc.
6. University of Liverpool	Bachelor of Veterinary Science	B. V. Sc.
7. University of London	Bachelor of Veterinary Medicine	B.Vet.Med.
REPUBLIC OF IRELAND		
8. University of Dublin	Bachelor of Veterinary Medicine	B. V.M.
9. National University of Ireland	Bachelor of Veterinary Medicine	B. V. M.

Assented to on 23-8-1984.

THE ESTATE DUTY (AMENDMENT) ACT, 1984 (Act No. 54 of 1984)

AN

ACT

further to amend the Estate Duty Act, 1953.

Be it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows :—

1. *Short title.*—This Act may be called the Estate Duty (Amendment) Act, 1984

2. *Amendment of section 5A.*—In section 5A of the Estate Duty Act, 1953 (hereinafter referred to as the principal Act), after sub-section (2B), the following sub-section shall be inserted, namely:—

“(2C) The amendments made to this Act by sections 3 to 5 of the Estate Duty (Amendment) Act, 1984, shall apply to estate duty in respect of agricultural lands situate in the territories comprised in—

(a) the states of Assam, Bihar, Gujarat, Haryana, Himachal Pradesh, Kerala, Madhya Pradesh, Maharashtra, Meghalaya, Orissa and Tamil Nadu and all the Union territories, on the expiration of two months from the date on which the said Act received the assent of the President; and

(b) any other States in respect whereof resolutions have been passed by the Legislatures of those States adopting the proposals with respect to such amendments or the said amendments, as the case may be, under clause (1) of article 252 of the Constitution on the expiration of four months from the date of such adoption.”

3. *Insertion of new section 5B.*—After section 5A of the principal Act, the following section shall be inserted, namely:—

“5B. *Act to cease to apply to estate duty in respect of agricultural land.*—Notwithstanding anything contained in section 5, this Act shall cease to apply to the levy of estate duty in respect of agricultural land.”

4. *Amendment of section 34.*—In section 34 of the principal Act, —

(a) in sub-section (1),—

(i) in clause (a), the word “and” shall be inserted at the end ;
(ii) clause (b) shall be omitted;

(b) in the Explanation below sub-section (2), clause (ii) shall be omitted.

5. *Amendment of section 85.*—In section 85 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely :—

“(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or

in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule."

Assented to on 23-8-94

THE LEVY SUGAR PRICE EQUALISATION FUND (AMENDMENT) ACT, 1984

AN

ACT

to amend the Levy Sugar Price Equalisation Fund Act, 1976.

BE it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Levy Sugar Price Equalisation Fund (Amendment) Act, 1984.
2. *Amendment of section 2.*—In section 2 of the Levy Sugar Price Equalisation Fund Act, 1976 (31 of 1976) (hereinafter referred to as the principal Act);—
 - (a) in clause (b), the following *Explanation* shall be inserted and shall be deemed always to have been inserted, namely :—

"*Explanation.*—For the removal of doubts, it is hereby declared that where in relation to levy sugar of any grade sold by any producer, the producer has realised towards duties of excise with respect to such sugar any amount in excess of the amount payable by way of such duties, such excess shall also be deemed to be excess realisation within the meaning of this clause ;";
 - (b) for clause (e), the following clause shall be substituted and shall be deemed always to have been substituted, namely:—
 - (e) "levy sugar" means the sugar requisitioned by the Central Government under clause (f) of sub-section (2) of section 3 of the Essential Commodities Act, 1955 (10 of 1955);".
3. *Amendment of section 3.*—In section 3 of the principal Act, —
 - (a) in sub-section (2), in the opening portion, for the words, brackets and figure "provided in sub-section (4)", the words, brackets and figure "provided in sub-section (5)" shall be substituted;
 - (b) in sub-section (3),—
 - (i) in the opening portion, for the words, brackets and figure "provided in sub-section (4)", the words, brackets and figure "provided in sub-section (5)" shall be substituted ;
 - (ii) the following proviso shall be inserted at the end, namely:—

"Provided that —

 - (a) the interest due on so much of any amount of any excess realisation made before the date of commencement of the Levy Sugar Price Equalisation Fund (Amendment) Act, 1984, as is not credited to the Fund together with interest at the aforesaid rate of twelve and a half per cent per annum before the expiry of sixty days from the date of such commencement; and
 - (b) the interest due on so much of the amount of any excess realisation made on or after the date of such commencement as is not credited to the Fund together with interest at the aforesaid rate of twelve and a half per cent per annum within sixty days from the date on which such amount was realised, shall be at the rate of fifteen per cent per annum from the date on which such amount was realised by the producer."
 - (c) sub-section (4) shall be omitted ;
 - (d) in sub-section (5),—
 - (i) in the opening portion, for the words, brackets and figure "interim order referred to in sub-section (4)", the words "interim order made by any court, whether before or after the commencement of this Act" shall be substituted ;
 - (ii) in the concluding portion, for the words "or in any court of appeal or revision, credit such amount, to the extent it represents any excess realisation, to the Fund", the following shall be substituted, namely:—

"credit to the Fund within sixty days from the date of such final disposal such, amount, to the extent it represents any excess realisation together with interest due thereon at the rate of twelve and a half per cent per annum from the date on which such amount was realised by him:

Provided that —

- (i) the interest due on so much of such amount as was realised before the date of commencement of the Levy Sugar Price Equalisation Fund (Amendment) Act, 1984 and is not credited to the Fund

together with interest at the aforesaid rate of twelve and a half per cent per annum before the expiry of sixty days from the date of such commencement, and

(ii) the interest due on so much of such amount as is realised after such commencement and not credited to the Fund together with interest at the aforesaid rate of twelve and a half per cent per annum within sixty days from the date on which such amount was realised.

shall be at the rate of fifteen per cent per annum from the date on which such amount was realised by the producer”.

(e) after sub-section (5), the following sub-section shall be inserted and shall be deemed always to have been inserted, namely :—

“(5A) Notwithstanding anything contained in sub-section (5), the interest payable on the amount of any excess realisation required to be credited to the Fund under that sub-section in respect of any period during which such amount was by reason of any order of any court held by the producer with any other person or with any court, Government, bank or other authority referred to in clause (a) of that sub-section, shall be the interest which actually accrued on such amount in respect of such period.”;

(f) after sub-section (5A) as so inserted, the following sub-sections shall be inserted, namely:—

“(5B) Without prejudice to the provisions of sub-section (5), any amount representing the difference between the controlled price and the interim price allowed by the court which —

- (a) is held by any producer with any other person or with any court, Government, bank or other authority referred to in clause (a) of that sub-section, or
- (b) is under the cover of any guarantee referred to in clause (b) of that sub-section,

shall, as soon as may be after the final disposal of the proceedings of the court aforesaid, be credited, to the extent such amount represents excess realisation together with the interest, if any, which has accrued thereon or been guaranteed in respect thereof, to the Fund by such other person, the court, Government, bank or other authority aforesaid or, as the case may be, the bank or other furnishing such guarantee and the amount so credited shall be set off against the amount (including interest) required to be credited by the producer under sub-section (5).

(5C) The provisions of sub-section (5B) shall apply in relation to every amount representing the difference between the controlled price and the interim price allowed by the court which, immediately before the commencement of the Levy Sugar Price Equalisation Fund (Amendment) Act, 1984 —

- (a) is held by any producer with any other person or with any court, Government, bank or other authority mentioned in clause (a) of that sub-section, or
- (b) is under the cover of any guarantee mentioned in clause (b) of that sub-section,

notwithstanding that the final disposal of the proceedings of the court aforesaid took place before such commencement and for this purpose the reference in that sub-section to “final disposal of the proceedings of the court” shall be construed as a reference to such commencement.

(5D) Where any amount is credited to the Fund under sub-section (5B), such crediting shall,—

- (a) in a case falling under clause (a) of that sub-section, operate as the discharge of the liability in relation to such amount of the person, court, Government, bank or other authority so crediting the amount;
- (b) in a case falling under clause (b) of that sub-section, have effect as if it had been made in accordance with the guarantee given by the bank or other person crediting the amount and for this purpose such guarantee shall be deemed to have provided for such crediting.”.

4. *Amendment of section 5.*—In section 5 of the principal Act, for the words “the producer by whom such amount is credited”, the words “the producer concerned” shall be substituted.

5. *Amendment of section 6.*—In section 6 of the principal Act,—

(a) in sub-section (1), in the proviso,—

- (i) in clause (b), the word “or” shall be inserted at the end and shall be deemed always to have been inserted;
- (ii) after clause (b), the following clause shall be inserted and shall be deemed always to have been inserted, namely :—

“(c) being a person who is not a wholesale dealer or a retail dealer, had passed on the incidence of such excess over the controlled or fair price of levy sugar to any other person as part of the price of any product in the manufacture of which such sugar has been used or, as the case may be, to the consumer by whom the price of such sugar was paid.”;

(b) in sub-section (3), for the words “excess realisation made from him”, the words “excess realisation made from him together with interest (if any) thereon credited to the Fund” shall be substituted and shall be deemed always to have been substituted.

6. *Amendment of section 11.*—In section 11 of the principal Act, for the words “any excess realisations made by him or any part thereof, such excess realisations or such part” the words “any excess realisation made by him, or any interest due on such excess realisation or any part of such excess realisation or interest, such excess realisation or such interest or such part” shall be substituted and shall be deemed always to have been substituted.

7. *Amendment of section 13.*—In section 13 of the principal Act, in sub-section (1) in clause (a), after the words “any excess realisations made by him or any part thereof”, the words “any excess realisation made by him or any interest due on such excess realisation or any part of such excess realisation or interest” shall be substituted.

8. *Validation and saving.*—(1) Notwithstanding any judgement, decree or order of any court, tribunal or other authority, any thing or action done or taken or purporting to have been done or taken under the provisions of the principal Act before the commencement of this Act shall, for all purposes, be deemed to be, and to have always, been as validly and effectively done or taken as if the amendments made to the principal Act by section 2, clause (e) of section 3, section 5 and section 6 had been in force at all material times.

(2) For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if the provisions of section 2, clause (e) of section 3, section 5, section 6 and sub-section (1) of this section had not come into force.

Assented to on 23-8-1984.

THE HOOGHLY DOCKING AND ENGINEERING COMPANY LIMITED (ACQUISITION AND TRANSFER OF UNDERTAKINGS) ACT, 1984

(Act No. 55 of 1984)

AN
ACT

to provide for the acquisition and transfer of the undertakings of the Hooghly Docking and Engineering Company Limited with a view to securing the better utilisation of the available infrastructure thereof, to modernise and increase the capacity for shipbuilding and ship repairing so as to reduce the import of ships, vessels and craft and to augment the production of grey iron, non-ferrous and alloy castings by the said undertakings so as to subserve the interests of the general public by ensuring the continued supply of the said articles which are essential to the needs of the economy of the country, and for matters connected therewith and incidental thereto.

WHEREAS the Hooghly Docking and Engineering Company Limited is, through its undertakings, engaged in ship-building, ship repairing, general engineering and other activities ;

AND WHEREAS the Company has the capacity and infrastructure to effect an increase in the country's capacity to manufacture ships and other vessels and craft ;

AND WHEREAS an increase in the production of such vessels and craft would reduce the need of the country to make imports of such vessels and craft and would thereby enable the country to save foreign exchange ;

AND WHEREAS the Company is also engaged in the production of grey iron, non-ferrous and alloy castings which are essential to the needs of the economy of the country ;

AND WHEREAS the Company had been suffering heavy losses for a number of years mainly due to lack of fresh investment and modernisation ;

AND WHEREAS further investment of substantial sums of money is needed to run and modernise the undertakings of the Company ; but in view of the serious adverse financial condition of the Company it is not in a position to secure such investment ;

AND WHEREAS the liquidation of the Company, by reason of its inability to pay its debts, would prejudicially effect the country's capacity to manufacture such ships, vessels and craft and would thereby be prejudicial to the public interest ;

AND WHEREAS in view of the position aforesaid it is necessary to acquire the undertakings of the said Company to enable the Central Government to make necessary investments for securing the proper utilisation of the available facilities for shipbuilding and ship repairing (including the production of vessels and craft) and also for the production of grey iron, non-ferrous and alloy castings which are essential to the needs of the economy of the country ;

BE it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows:—

CHAPTER-I

PRELIMINARY

1 *Short title and commencement.*—(1) This Act may be called the Hooghly Docking and Engineering Company Limited (Acquisition and Transfer of Undertakings) Act, 1984.

(2) It shall be deemed to have come into force on the 28th day of June, 1984.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) “appointed day” means the date of commencement of this Act ;

(b) “Commissioner” means the Commissioner of Payments appointed under section 15 ;

(c) “Company” means the Hooghly Docking and Engineering Company Limited, being a company as defined in the Companies Act, 1956 (1 of 1956) and having its registered office at 12, Mission Row, Calcutta-700001 ;

(d) “existing Government company” means a Government company which is carrying on business on the appointed day ;

- (e) "new Government company" means a Government company formed and registered on or after the appointed day ;
- (f) "notification" means a notification published in the Official Gazette ;
- (g) "prescribed" means prescribed by rules made under this Act ;
- (h) "specified date", in relation to any provision of this Act, means such date as the Central Government may, by notification, specify for the purposes of that provision and different dates may be specified for different provisions of this Act ;
- (i) words and expressions used herein and not defined but defined in the Companies Act, 1956, (1 of 1956) shall have the meanings, respectively, assigned to them in that Act.

CHAPTER II

ACQUISITION AND TRANSFER OF THE UNDERTAKINGS OF THE COMPANY

3. *Transfer to and vesting in the Central Government of the undertakings of the Company.*—On the appointed day, the undertakings of the Company, and the right, title and interest of the Company in relation to its undertakings, shall, by virtue of this Act, stand transferred to, and vested in, the Central Government.

4. *General effect of vesting.*—(1) The undertakings of the Company shall be deemed to include all assets, rights, lease-holds, powers, authorities and privileges, and all property, movable and immovable, including lands, buildings, workshops, stores, instruments, machinery and equipment, cash balances, cash on hand, reserve funds, investments, book debts and all other rights and interests in, or arising out of, such property as were immediately before the appointed day in the ownership, possession, power or control of the Company, whether within or outside India, and all books of account, registers and all other documents of whatever nature relating thereto.

(2) All properties as aforesaid which have vested in the Central Government under section 3 shall, by force of such vesting, be freed and discharged from any trust, obligation, mortgage, charge, lien and all other incumbrances affecting them, and any such attachment, injunction, decree or order of any court, tribunal or other authority restricting the use of such properties in any manner shall be deemed to have been withdrawn.

(3) every mortgagee of any property which has vested under this Act in the Central Government and every person holding any charge, lien or other interest in, or in relation to, any such property, shall give, within such time and in such manner as may be prescribed, an intimation to the Commissioner of such mortgage, charge, lien or other interest.

(4) For the removal of doubts, it is hereby declared that the mortgagee of any property referred to in sub-section (3) or any other person holding any charge, lien or other interest in, or in relation to, any such property shall be entitled to claim, in accordance with his rights and interests, payment of the mortgage money or other dues, in whole or in part, out of the amount specified in section 8 and also out of the amount determined under section 9, but no such mortgage, charge, lien or other interest shall be enforceable against any property which has vested in the Central Government.

(5) Any licence or other instrument granted to the Company in relation to any undertaking which has vested in the Central Government under section 3, at any time before the appointed day and in force immediately before that day, shall continue to be in force on and after such day in accordance with its tenor in relation to, and for the purposes of, such undertaking and on and from the date of vesting of such undertaking under section 5, in an existing Government company, or under section 6, in a new Government company, the existing, or new, Government company, as the case may be, shall be deemed to be substituted in such licence or other instrument as if such licence or other instrument had been granted to such existing, or new, Government company and such existing, or new, Government company shall hold it for the remainder of the period for which the Company would have held it under the terms thereof.

(6) If, on the appointed day, any suit, appeal or other proceeding of whatever nature in relation to any property which has vested in the Central Government under section 3, instituted or preferred by or against the Company is pending, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of the transfer of the undertakings of the Company or of anything contained in this Act, but the suit, appeal or other proceeding may be continued, prosecuted or enforced by or against the Central Government, or where the undertakings of the Company are directed, under section 5, to vest in an existing Government company or become transferred by virtue of the provisions of section 6 to a new Government company, by or against such Government company.

5. *Power of Central Government to direct vesting of the undertakings of the Company in an existing Government company.*—(1) Notwithstanding anything contained in sections 3 and 4, and subject to the provisions of section 6, the Central Government may, if it is satisfied that an existing Government company is willing to comply, or has complied, with such terms and conditions as that Government may think fit to impose, direct, by notification, that the undertakings of the Company, and the right, title and interest of the Company in relation to its undertakings which have vested in the Central Government under section 3, shall, instead of continuing to vest in the Central Government, vest in that existing Government company either on the date of publication of the notification or on such earlier or later date (not being a date earlier than the appointed day) as may be specified in the notification.

(2) Where the right, title and interest, of the Company in relation to its undertakings vest under sub-section (1), in an existing Government company, that Government company shall, on and from the date of such vesting be deemed to have become, and until the transfer of the undertakings by virtue of the provisions of section 6, to a new Government company, be deemed to be, the owner in relation to such undertakings and the rights and liabilities of the Central Government in relation to such undertakings shall, on and from the date of such vesting, be deemed to have become, and until the date of such transfer, be deemed to be, the rights and liabilities, respectively, of that existing Government company.

6. *Transfer of undertaking of Company from an existing Government company to a new Government company.*—(1) Notwithstanding anything contained in sections 3 and 4, where the undertakings of the Company have been directed, under sub-section (1) of section 5, to vest in an existing Government company, the Central Government may, if it is satisfied that a new Government company is willing to comply, or has complied, with such terms and conditions as that Government may think fit to impose, declare, by notification, that the undertakings of the Company be transferred to that new Government company ; and on the issue of such declaration the right, title and interest of the Company in relation

to its undertakings, which had been directed under sub-section (1) of section 5 to vest in an existing Government company, shall, instead of continuing to vest in that existing Government company, vest in that new Government company with effect from the date on which such declaration is made.

(2) Where the right, title and interest of the existing Government company in relation to the undertakings of the Company vest under sub-section (1) in a new Government company, that new Government company shall, on and from the date of such vesting, be deemed to have become the owner in relation to such undertakings and the right; and liabilities of the existing Government company in relation to such undertakings shall, on and from the date of such vesting, be deemed to have become the rights and liabilities, respectively, of that new Government company.

7. *Company to be liable for certain prior liabilities.*—(1) Every liability, other than the liability specified in sub-section (2), of the Company in respect of any period prior to the appointed day, shall be the liability of the Company and shall be enforceable against it, and not against the Central Government, or where the undertakings of the Company vest in an existing, or a new, Government company, against such Government company.

(2) Any liability arising in respect of advances from customers for shipbuilding and non-shipbuilding orders shall, on and from the appointed day, be the liability of the Central Government or of the existing, or new, Government company aforesaid, and shall be discharged by that Government, or as the case may be, the existing, or new, Government company.

(3) For the removal of doubts, it is hereby declared that,

- (a) save as otherwise expressly provided in this Act, no liability of the company in relation to its undertakings in respect of any period prior to the appointed day, shall be enforceable against the Central Government or where the undertakings of the Company vest in an existing, or a new, Government company, against such Government company;
- (b) no award, decree or order of any court, tribunal or other authority in relation to the undertakings of the Company, passed on or after the appointed day in respect of any matter, claim or dispute, which arose before that day, shall be enforceable against the Central Government, or where the undertakings of the Company vest in an existing, or a new, Government company, against such Government company;
- (c) no liability incurred by the Company before the appointed day for the contravention of any provision of law for the time being in force shall be enforceable against the Central Government, or where the undertakings of the Company vest in an existing, or a new, Government company, against such Government company.

CHAPTER III

PAYMENT OF AMOUNTS

8. *Payment of amount.*—For for transfer to, and vesting in, the Central Government, under section 3, of the undertakings of the Company and the right, title and interest of the Company in relation to its undertakings, there shall be paid by the Central Government to the Company, in cash, and in the manner specified in Chapter VI, an amount of rupees six hundred and fifty lakhs.

9. *Payment of further amount.*—(1) The amount specified in section 8 shall carry simple interest at the rate of four per cent, per annum for the period commencing on the appointed day and ending on the date on which payment of such amount is made by the Central Government to the Commissioner.

(2) The amount determined in accordance with the provisions of sub-section (1) shall be paid by the Central Government to the Company in addition to the amount specified in section 8.

(3) For the removal of doubts, it is hereby declared that the liabilities of the Company, in relation to its undertakings which have vested in the Central Government under section 3, shall be discharged from the amount referred to in section 8, and also from the amount determined under sub-section (1) in accordance with the rights and interests of the creditors of the Company.

CHAPTER VI

MANAGEMENT, ETC., OF THE UNDERTAKINGS OF THE COMPANY

10. *Management, etc., of the undertakings of the Company.*—The general superintendence, direction, control and management of the affairs and business of the undertakings of the Company, the right, title and interest in relation to which have vested in the Central Government under section 3, shall,—

- (a) where a direction has been made by the Central Government under sub-section (1) of section 6, vest, on and from the date specified in such direction, in the existing Government company specified therein; or
- (b) where a declaration has been made under sub-section (1) of section 6, vest, on and from the date of such declaration, in the new Government company specified therein.

and thereupon the existing or new, Government company, as the case may be, shall be entitled to exercise, to the exclusion of all other persons, all such powers and do all such things as the Company is authorised to exercise and do in relation to the undertakings owned by it.

11. *Duty of persons in charge of management of the undertakings of the Company to deliver all assets, etc.*—(1) On the vesting of the management of the undertakings of the Company in the existing, or new, Government company, all persons in charge of the management of the undertakings of the Company immediately before such vesting, shall be bound to deliver to such Government company, all assets, books of account, registers and other documents in their custody relating to the undertakings of the Company.

(2) The Central Government may issue such directions as it may deem desirable in the circumstances of the case to the existing, or new, Government company and such Government company may also, if it is considered necessary so to do, apply to the Central Government at any time for instructions as to the manner in which the management of the undertakings of the Company shall be conducted or in relation to any other matter arising in the course of such management.

12. *Duty of persons to account for assets, etc., in their possession.*—(1) Any person who has, on the appointed day, in his possession or under his control, any assets, books, documents or other papers relating to any of the undertakings owned by the Company, which have vested in the Central Government or in the existing, or new, Government company under this Act, and which belong to the Company or would have so belonged, if the undertakings owned by the Company had not vested in the Central Government or such Government company, shall be liable to account for the said assets, books, documents and other papers to the Central Government or the Government company and shall deliver them up to the Central Government or the Government company or to such person or persons as the Central Government or the Government company may specify in this behalf.

(2) The Central Government may take or cause to be taken all necessary steps for securing possession of the undertakings of the Company which have vested in it under section 3.

(3) The Company shall, within such period as the Central Government may allow in this behalf, furnish to that Government a complete inventory of all its properties and assets, as on the appointed day, pertaining to the undertakings which have vested in the Central Government under section 3, and, for this purpose, the Central Government or the existing, or new, Government company shall afford to the Company all reasonable facilities.

CHAPTER V

PROVISIONS RELATING TO THE EMPLOYEES OF THE COMPANY

13. *Continuance of employees.*—(1) Every person who has been, immediately before the appointed day, employed in any of the undertakings of the Company shall become,—

(a) on and from the appointed day, an employee of the Central Government ; and

(b) where the undertakings of the Company are vested in an existing, or a new, Government company, an employee of that company on and from the date of such vesting,

and shall hold office or service under the Central Government or the existing, or new, Government company, as the case may be, with the same rights and privileges as to pension, gratuity and other matters as would have been admissible to him if there had been no such vesting and shall continue to do so unless and until his employment under the Central Government or the existing, or new, Government company as the case may be, is duly terminated or until his remuneration and other conditions of service are duly altered by the Central Government or the existing, or new, Government company, as the case may be :

Provided that, unless any extension of service is granted to such person after the appointed day in accordance with the rules in that behalf in force for the time being, such person shall retire compulsorily from the service of the Central Government or the existing, or new, Government company, as the case may be,—

(a) where he has attained or attains the age of fifty eight years before, or on, or within a period of three months from, the appointed day, on the date of expiry of the said period of three months or on the date on which he shall retire compulsorily from service in accordance with the conditions of service applicable to him immediately before the appointed day, whichever date is earlier :

(b) in any other case, on his attaining the age of fifty-eight years.

(2) Notwithstanding anything contained in the Industrial Disputes Act, 1947 (14 of 1947), or in any other law for the time being in force, the transfer of the services of any officer or other person employed in any undertaking of the Company to the Central Government or the existing, or new, Government company shall not entitle such officer or other employee to any compensation under this Act or under any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.

14. *Provident fund and other funds.*—(1) Where the Company has established a provident fund, superannuation fund, welfare fund or any other fund for the benefit of the persons employed in any of the undertakings of the Company the monies relatable to the officers or other employees, whose services have become transferred, by or under this Act to the Central Government or the existing, or new, Government company, shall, out of the monies standing, on the appointed day, to the credit of such provident fund, superannuation fund, welfare fund or other fund, stand transferred to, and shall vest in, the Central Government or the Government company, as the case may be.

(2) The monies which stand transferred under sub-section (1) to the Central Government or the existing, or new, Government company, as the case may be, shall be dealt with by that Government or that company in such manner as may be prescribed.

CHAPTER VI

COMMISSIONER OF PAYMENTS

15. *Appointment of Commissioner of Payments.*—(1) The Central Government shall, for the purpose of disbursing the amounts payable to the Company under sections 8 and 9, by notification, appoint a Commissioner of Payments.

(2) The Central Government may appoint such other persons as it may think fit to assist the Commissioner and thereupon the Commissioner may authorise one or more of such persons also to exercise all or any of the powers exercisable by him under this Act and different persons may be authorised to exercise different powers.

(3) Any person authorised by the Commissioner to exercise any of the powers exercisable by the Commissioner may exercise those powers in the same manner and with the same effect as if they have been conferred on that person directly by this Act and not by way of authorisation.

(4) The salaries and allowances of the Commissioner and other persons appointed under this section shall be defrayed out of the Consolidated Fund of India.

16. *Payment by the Central Government to the Commissioner.*—(1) The Central Government shall, within thirty days from the specified date, pay, in cash, to the Commissioner, for payment to the Company—

- (a) an amount equal to the amount specified in section 8, and
- (b) an amount equal to the amount payable to the Company under section 9.

(2) A deposit account shall be opened by the Central Government in favour of the Commissioner, in the Public Account of India, and every amount paid under this Act to the Commissioner shall be deposited by him to the credit of the said deposit account and the said deposit account shall be operated by the Commissioner.

(3) Records shall be maintained by the Commissioner in respect of the undertakings of all the Company in relation to which payment has been made to him under this Act.

(4) The interest accruing on the amount standing to the credit of the deposit account referred to in sub-section (2) shall ensure to the benefit of the Company.

17. *Certain powers of the Central Government or the Government company.*—(1) The Central Government or the existing, or new, Government company, as the case may be, shall be entitled to receive up to the specified date, to the exclusion of all other persons, any money due to the Company, in relation to its undertakings which have vested in the Central Government or such Government company, and realised after the appointed day, notwithstanding that the realisation pertains to a period prior to the appointed day.

(2) The Central Government or the existing, or new, Government company, as the case may be, may make a claim to the Commissioner with regard to every payment made by that Government or Government company, after the appointed day for discharging any liability of the Company in relation to any period prior to the appointed day; and every such claim shall have priority in accordance with the priorities attaching, under this Act, to the matter in relation to which such liability has been discharged by the Central Government or the Government company.

(3) Save as otherwise provided in this Act, the liabilities of the Company in respect of any transaction prior to the appointed day, which have not been discharged on or before the specified date, shall be the liabilities of the Company.

18. *Claims to be made to the Commissioner.*—Every person having a claim against the Company with regard to any of the matters specified in the Schedule pertaining to the undertakings of the Company shall prefer such claim before the Commissioner within thirty days from the specified date ;

Provided that if the Commissioner is satisfied that the claimant was prevented by sufficient cause from preferring the claim within the said period of thirty days, he may entertain the claim within a further period of thirty days and not thereafter.

19. *Priority of claims.*—The claims made under section 18 shall have priorities in accordance with the following principles, namely:—

- (a) Category I shall have precedence over all other categories and Category-II shall have precedence over Category III, and so on;
- (b) the claims specified in each of the categories shall rank equally and be paid in full, but, if the amount is insufficient to meet such claims in full, they shall abate in equal proportions and be paid accordingly ; and
- (c) the question of discharging any liability with regard to a matter specified in a lower category shall arise only if a surplus is left after meeting all the liabilities specified in the immediately higher category.

20. *Examination of claims.*—(1) On receipt of the claims made under section 18, the Commissioner shall arrange the claims in the order of priorities specified in the Schedule and examine the same in accordance with such order of priorities.

(2) If, on examination of the claims, the Commissioner is of opinion that the amount paid to him under this Act is not sufficient to meet the liabilities specified in any lower category, he shall not be required to examine the claims in respect of such lower category.

21. *Admission or rejection of claims.*—(1) After examining the claims with reference to the priorities set out in the Schedule, the Commissioner shall fix a certain date on or before which every claimant shall file the proof of his claim.

(2) Not less than fourteen days' notice of the date so fixed shall be given by advertisement in one issue of any daily newspaper in the English language having circulation in the major part of the country and one issue of any daily newspaper in such regional language as the Commissioner may consider suitable, and every such notice shall call upon the claimant to file the proof of his claim with the Commissioner within the period specified in the advertisement.

(3) Every claimant who fails to file the proof of his claim within the time specified by the Commissioner shall be excluded from the disbursements made by the Commissioner.

(4) The Commissioner shall, after such investigation as may, in his opinion, be necessary and after giving the Company an opportunity of refuting the claim and after giving the claimant a reasonable opportunity of being heard, by order in writing, admit or reject the claim in whole or in part.

(5) The Commissioner shall have the power to regulate his own procedure in all matters arising out of the discharge of his functions, including the place or places at which he may hold his sittings and shall, for the purpose of making an investigation under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely:—

- (a) the summoning and enforcing the attendance of any witness and examining him on oath ;
- (b) the discovery and production of any document or other material object producible as evidence ;
- (c) the reception of evidence on affidavits ;
- (d) the issuing of any commission for the examination of witnesses.

(6) Any investigation before the Commissioner shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of Indian Penal Code (45 of 1860) and the Commissioner shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

(7) A claimant, who is dissatisfied with the decision of the Commissioner, may prefer an appeal against the decision to the principal civil court of original jurisdiction within the local limits of whose jurisdiction the registered office of the Company is situated :

Provided that where a person who is a Judge of a High Court is appointed to be the Commissioner, such appeal shall lie to the High Court exercising jurisdiction over the place in which the registered office of the Company is situated and such appeal shall be heard and disposed of by not less than two Judges of that High Court.

22. *Disbursement of money by the Commissioner to claimants.*—After admitting a claim under this Act, the amount due in respect of such claim shall be paid by the Commissioner to the person or persons to who such amount is due, and on such payment, the liability of the Company in respect of such claim shall stand discharged.

23. *Disbursement of amounts to the Company.* (1) If, out of the monies paid to him in relation to the undertakings of the Company, there is a balance left after meeting the liabilities as specified in the Schedule, the Commissioner shall disburse such balance to the Company.

(2) Where the possession of any machinery, equipment or other property has vested in the Central Government or the existing, or new, Government company under this Act, but such machinery, equipment or other property does not belong to the Company, it shall be lawful for the Central Government or the existing, or new, Government company to continue to possess such machinery or equipment or other property on the same terms and conditions under which they were possessed by the Company immediately before the appointed day.

24. *Undisbursed or unclaimed amount to be deposited to the teneral revenue account.*—Any money paid to the Commissioner which remains undisbursed or unclaimed on the date immediately preceding the date on which the office of the Commissioner is finally wound up, shall be transferred by the Commissioner, before this office is finally wound up to the general revenue account of the Central Government, but a claim to any money so transferred may be preferred to the Central Government by the person entitled to such payment and shall be dealt with as if such transfer had not been made, and the order, if any, for payment of the claim, being treated as an order for the refund of revenue.

CHAPTER VII

MISCELLANEOUS

25. *Act to have overriding effect.*—The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law, other than this Act or in any decree or order of any court, tribunal or other authority.

26. *Contracts to Cease to have effect unless ratified by the Central Government or the Government company.*—Every contract entered into by the Company in relation to its undertakings, which has vested in the Central Government under section 3, for any service, sale or supply and in force immediately before the appointed day, shall on and from the expiry of one hundred and eighty days from the appointed day, cease to have effect unless such contract is, before the expiry of that period, ratified, in writing, by the Central Government or the existing, or new, Government company, in which such undertakings have been vested under this Act, and in ratifying such contract, the Central Government or the Government company may make such alteration or modification therein as it may think fit :

Provided that the Central Government or such Government company shall not omit to ratify a contract and shall not make any alteration or modification in a contract—

(a) unless it is satisfied that such contract is unduly onerous or has been entered into in bad faith or is detrimental to the interests of the Central Government or the Government company ; and

(d) except after giving to the parties to the contract a reasonable opportunity of being heard and except after recording in writing its reasons for refusal to ratify the contract or for making any alteration or modification therein.

27. *Protection of action taken in good faith.*—(1) No suit, prosecution or other legal proceeding shall lie against the Central Government or any officer or other employee of that Government or in the existing or new, Government company or other person authorised by the Central Government or the Government company for anything which is in good faith done or intended to be done under this Act.

(2) No suit or other legal proceeding shall lie against the Central Government or any of its officers or other employees or the existing, or new, Government company or other person authorised by the Central Government or the Government company for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

28. *Delegation of powers.*—(1) The Central Government may, by notification, direct that all or any of the powers exercisable by it under this Act, other than the powers conferred by this section, section 31 and section 32, may also be exercised by such person or persons as may be specified in the notification.

(2) Whenever any delegation of power is made under sub-section (1), the person to whom such power has been delegated shall act under the direction, control and supervision of the Central Government.

29. *Penalties.*—Any person who,—

(a) having in his possession, custody or control any property forming part of the undertakings of the Company, having in his possession, custody or control any property forming part of the undertakings of the Company, wrongfully withholds such property, from the Central Government or the existing, or new, Government company ; or

- (b) wrongfully obtains possession of, or retains, any property forming part of the undertakings of the Company ; or
- (c) wilfully withholds or fails to furnish to the Central Government or the existing, or new, Government company or any person or body of persons specified by that Government or the Government company, as the case may be, any document relating to the undertakings of the Company, which may be in his possession, custody or control ; or
- (d) fails to deliver to the Central Government or the existing, or new, Government company or to any person or body of persons specified by that Government or the Government company any assets, books of accounts, registers or other documents in his possession, custody or control, relating to the undertakings of the Company ; or
- (e) wrongfully removes or destroys any property forming part of the undertakings of the Company ; or
- (f) prefers any claim under this Act which he knows or has reasonable cause to believe to be false or grossly inaccurate,

shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to ten thousand rupees, or with both.

30. *Offences by companies.*—(1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company, for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

- (a) “company” means any body corporate and includes a firm or other association of individuals ; and
- (b) “director” , in relation to a firm, means a partner in the firm.

31. *Power to make rules.*—(1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the time within which, and the manner in which, an intimation shall be given to the Commissioner under sub-section (3) of section 4 ;
- (b) the manner in which the monies in any provident fund or other fund under section 14 shall be dealt with ;
- (c) any other matter which is required to be, may be, prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

32. *Power to remove difficulties.*—If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty :

Provided that no such order shall be made after the expiry of a period of two years from the appointed day.

33. *Repeal and saving.*—(1) The Hooghly Docking and Engineering Company Limited (Acquisition and Transfer of Undertakings) Ordinance, 1984 (7 of 1984), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

THE SCHEDULE

(See sections 18, 20, 21 and 23)

ORDER OF PRIORITIES FOR THE DISCHARGE OF LIABILITIES OF THE COMPANY

Category I—

- (a) Wages, salaries and other dues payable to the employees of the Company.

- (b) Arrears in relation to contributions to be made by the Company to the provident fund, Employees' State Insurance Fund, Life Insurance Corporation premium and any other arrear under any law for the time being in force.

Category II—

Loans and interests for which Government of India have given guarantees to the public financial institutions.

Category III—

Secured loans with interest advanced by—

- (a) public financial institutions;
- (b) banks.

Category IV—

Statutory dues.

Category V—

Unsecured loans with interest advanced by the public financial institutions, banks or other creditors.

Category VI—

Any credit availed of by the Company for the purpose of carrying on any trading or manufacturing operations.

Category VII—

Any other loans or dues.

Assented to on 27-8-1984.

THE CINEMATOGRAPH (AMENDMENT) ACT, 1984

(ACT No. 56 OF 1984)

AN

ACT

further to amend the Cinematograph Act, 1952

BE it enacted by Parliament in the Thirty-fifth Year of the Republic of the India as follows:—

1. *Short title.*—This Act may be called the Cinematograph (Amendment) Act, 1984.
2. *Omission of section 6B.*—In the Cinematograph Act, 1952 (37 of 1952) (hereinafter referred to as the principal Act) section 6B shall be omitted.
3. *Amendment of section 7.*—In section 7 of the principal Act, in sub-section (1)—

(a) for the words “he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to twenty thousand rupees, or with both, and in the case of a continuing offence with a further fine which may extend to five thousand rupees for each day during which the offence continues :”; the following shall be substituted, namely :—

“he shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to one lakh rupees, or with both, and in the case of a continuing offence with a further fine which may extend to twenty thousand rupees for each day during which the offence continues :

Provided that a person who exhibits or permits to be exhibited in any place a video film in contravention of the provisions of sub-clause (i) of clause (a) shall be punishable with imprisonment for a term which shall not be less than three months, but which may extend to three years and with fine which shall not be less than twenty thousand rupees, but which may extend to one lakh rupees, and in the case of a continuing offence with a further fine which may extend to twenty thousand rupees for each day during which the offence continues :

Provided further that a court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than three months, or a fine of less than twenty thousand rupees :”;

(b) in the existing first proviso, for the words “Provided that”, the words “Provided further that” shall be substituted ;

(c) in the existing second proviso, for the words “Provided further” the words “Provided also” shall be substituted.

Assented to on 29-8-1984.

THE BENGAL IMMUNITY COMPANY LIMITED (ACQUISITION AND TRANSFER OF UNDERTAKINGS) ACT, 1984

(ACT No. 57 OF 1984)

AN

ACT

to provide for the acquisition and transfer, in the public interest, of the undertakings of Messers Bengal Immunity Company Limited, and for matters connected therewith or incidental thereto.

WHEREAS Messers Bengal Immunity Company Limited were engaged in the production and distribution of articles specified in the First Schedule to the Industries (Development and Regulation) Act, 1951 (65 of 1951), namely, chemicals (other than fertilizers), drugs and pharmaceuticals which are essential to the needs of the general public;

AND WHEREAS the Central Government, being of opinion, after an investigation into the affairs of the Company, that the affairs of the Company have been managed in a manner highly detrimental to the public interest, had authorised, under section 18A of the Industries (Development and Regulation) Act, 1951 (65 of 1951), a body of persons to take over the management of the Company;

AND WHEREAS for the purpose of reconstructing and rehabilitating the undertakings owned by the Company so as to subserve the interests of the general public by the augmentation of production and distribution of different varieties of chemicals (other than fertilizers), drugs and pharmaceuticals which are essential to the needs of the general public and to secure the continued supply thereof, it is necessary to acquire the undertakings of the Company;

BE it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. *Short title and commencement.*—(1) This Act may be called the Bengal Immunity Company Limited (Acquisition and Transfer of Undertakings) Act, 1984.

(2) It shall come into force on such date as the Central Government may, by notification, appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) “appointed day” means the date of commencement of this Act;

(b) “Commissioner” means the Commissioner of Payments appointed under section 15;

(c) “Company” means the Bengal Immunity Company Limited, being a company as defined in the Companies Act, 1956 (1 of 1956), and having its registered office at 153, Lenin Saranee, Calcutta-700013;

(d) “existing Government company” means a Government company which is carrying on business on the appointed day ;

(e) “new Government company” means a Government company formed and registered on or after the appointed day ;

(f) “notification” means a notification published in the Official Gazette;

(g) “prescribed” means prescribed by rules made under this Act;

(h) “specified date” means such date as the Central Government may, for the purpose of any of the provisions of this Act, by notification, specify, and different dates may be specified for different provisions of this Act;

(i) words and expressions used herein and not defined, but defined in the Companies Act, 1956 (1 of 1956), have the meanings, respectively, assigned to them in that Act.

CHAPTER II

ACQUISITION AND TRANSFER OF THE UNDERTAKINGS OF THE COMPANY

3. *Transfer to, and vesting in Central Government of the undertakings of the Company.*—On the appointed day, the undertakings of the Company, and the right, title and interest of the Company in relation to its undertakings, shall, by virtue of this Act, stand transferred to, and vest in, the Central Government.

4. *General effect of vesting.*—(1) The undertakings of the Company shall be deemed to include all assets, rights, lease-holds, powers, authorities and privileges, and all property, movable and immovable, including lands, buildings, offices, factories, workshops, stores, instruments, plants, machinery and equipment, installations, laboratories, office furniture, stationery and equipment, vehicles, patents, trade marks, cash balances, cash on hand, reserve funds, investments, book debts and all other rights and interests in, or arising out of, such property as were immediately before the appointed day in the ownership, possession, power or control of the Company, whether within or outside India, and all, books of account, registers and all other documents of whatever nature relating thereto.

(2) All properties and assets as aforesaid which have vested in the Central Government under section 3 shall, by force of such vesting, be freed and discharged from any trust, obligation, mortgage, charge, lien and all other incumbrances affecting them, and any attachment, injunction, decree or order of any court, tribunal or other authority restricting the use of such properties or assets in any manner or appointing any receiver in respect of the whole or any part of such properties or assets shall be deemed to have been withdrawn.

विचार कि
पद के मत

परन्तु
को प्रयत्न
प्रयास हो
विचार के

(3) Every mortgagee of any property which has vested, under this Act, in the Central Government and every person holding any charge, lien or other interest in or in relation to, any such property shall give, within such time and in such manner as may be prescribed, an intimation to the Commissioner of such mortgage, charge, lien or other interest.

(4) For the removal of doubts, it is hereby declared that the mortgagee of any property referred to in sub-section (3) or any other person holding any charge, lien or other interest in, or in relation to, any such property shall be entitled to claim, in accordance with his rights and interests, payment of the mortgage money or other dues, in whole or in part, out of the amount specified in section 8, and also out of the amounts determined under section 9, but, no such mortgage, charge, lien or other interest shall be enforceable against any property which has vested in the Central Government.

(5) Any licence or other instrument granted to the Company in relation to any undertaking which has vested in the Central Government under section 3 at any time before the appointed day and in force immediately before the appointed day shall continue to be in force on and after such day in accordance with its tenor in relation to and for the purposes of such undertakings, and, on and from the date of vesting such undertaking, under section 6, in an existing Government company, or under section 7, in a new Government company, the existing or new, Government company, as the case may be, shall be deemed to be substituted in such licence or other instrument as if such licence or other instrument had been granted to such existing, or new, Government company and such existing, or new, Government company shall hold it for the remainder of the period for which the Company would have held it under the terms thereof.

(6) If, on the appointed day, any suit, appeal or other proceeding, of whatever nature, in relation to any property or asset which has vested in the Central Government under section 3, instituted or preferred by or against the Company is pending, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of the transfer of the undertakings of the Company or of anything contained in this Act, but the suit, appeal or other proceeding may be continued, prosecuted or enforced by or against the Central Government, or where the undertakings of the Company are directed under section 6 to vest in an existing Government company, or become transferred by virtue of the provisions of section 7 to a new Government company, by or against such Government company.

5. *Central Government or existing, or new, Government company, not to be liable for certain prior liabilities.—*(1) Every liability of the Company in respect of any period prior to the 1st day of April, 1983, shall be the liability of the Company and shall be enforceable against it and not against the Central Government, or, where the undertakings of the Company are directed, under section 6, to vest in an existing Government company, or become transferred by virtue of the provisions of section 7, to a new Government company, against such Government company.

(2) Any liability incurred by, or arising against, the Company on or after the 1st day of April, 1983, including the liability to repay loans advanced to the Company by the Central Government on or after that day, together with the interest due thereon, shall be the liability:—

(a) where the undertakings of the Company are directed, under section 6, to vest in an existing Government company, of that existing Government company; or

(b) where the undertakings of the Company become transferred by virtue of the provisions of section 7, to a new Government company, of that new Government company,

and shall be discharged by such Government company as and when the discharge of such liability becomes due.

(3) For the removal of doubts, it is hereby declared that,—

(a) save as otherwise expressly provided in this Act, no liability of the Company in relation to its undertakings in respect of any period prior to the 1st day of April, 1983, shall be enforceable against the Central Government, or, where the undertakings of the Company are directed, under section 6, to vest in an existing Government company; or become transferred by virtue of the provisions of section 7, to a new Government company, against such Government company;

(b) no award, decree or order of any court, tribunal or other authority in relation to the undertakings of the Company, passed on or after the appointed day, in respect of any matter, claim or dispute, which arose before the 1st day of April, 1983, shall be enforceable against the Central Government, or, where the undertakings of the Company are directed, under section 6, to vest in an existing Government company, or become transferred, by virtue of the provisions of section 7, to a new Government company, against such Government company;

(c) no liability incurred by the Company before the 1st day of April, 1983, for the contravention of any provision of law for the time being in force, shall be enforceable against the Central Government, or, where the undertakings of the Company are directed, under section 6, to vest in an existing Government company, or become transferred, by virtue of the provisions of section 7, to a new Government company, against such Government company.

6. *Power of Central Government to direct vesting of the undertakings of the Company in an existing Government company.—*(1) Notwithstanding anything contained in sections 3 and 4, and subject to the provisions of section 7, the Central Government may, if it is satisfied that an existing Government company is willing to comply, or has complied, with such terms and conditions as that Government may think fit to impose, direct by notification, that the undertakings of the Company, and the right, title and interest of the Company in relation to its undertakings which have vested in the Central Government under section 3, shall, instead of continuing to vest in the Central Government, vest in that existing Government company either on the date of publication of the notification or on such earlier or later (date not being a date earlier than the appointed day) as may be specified in the notification.

(2) Where the right, title and interest of the Company in relation to its undertakings vest, under sub-section (1), in an existing Government company, that Government company shall, on and from the date of such vesting be deemed to have become, and until the transfer of the undertakings by virtue of the provisions of section 7 to a new Government company, be deemed to be, the owner in relation to such undertakings and the rights and liabilities of the Central Government in relation to such undertaking shall, on and from the date of such vesting, be deemed to have become, and until the date of such transfer, be deemed to be, the rights and liabilities, respectively, of that existing Government company.

7. *Transfer of the undertakings of the Company from an existing Government company to a new Government Company.*—(1) Notwithstanding anything contained in sections 3 and 4, where the undertakings of the Company have been directed, under sub-section (1) of section 6, to vest in an existing Government company, the Central Government may, if it is satisfied that a new Government company is willing to comply, or has complied, with such terms and conditions as that Government may think fit to impose, declare, by notification, that the undertakings of the Company be transferred to that new Government company, and on the issue of such declaration, the right, title and interest of the Company in relation to its undertakings which had been directed under sub-section (1) of section 6 to vest in that existing Government company, shall, instead of continuing to vest in that existing Government company, vest in that new Government company with effect from the date on which such declaration is made.

(2) Where the right, title and interest of the existing Government company in relation to the undertakings of the Company vest under sub-section (1) in a new Government company, that new Government company shall, on and from the date of such vesting, be deemed to have become the owner in relation to such undertakings and all the rights and liabilities of the existing Government company in relation to such undertakings shall, on and from the date of such vesting, be deemed to have become the rights and liabilities, respectively, of that new Government Company.

CHAPTER III

PAYMENT OF AMOUNTS

8. *Payment of amount.*—For the transfer to, and vesting in, the Central Government, under section 3, of the undertakings of the Company and the right, title and interest of the Company in relation to its undertakings, there shall be given by the Central Government to the Company, in cash, and in the manner specified in Chapter VI, an amount of rupees seven hundred and sixty-six lakhs and ninety thousand.

9. *Payment of further amount.*—For the deprivation of the Company of the management of its undertakings, there shall be given to the Company by the Central Government an amount calculated at the rate of two thousand rupees per month for the period commencing on the date on which the management of the undertakings of the Company was taken over by the persons authorised by the Central Government under section 18 A of the Industries (Development and Regulation) Act, 1951 (65 of 1951), and ending on the appointed day.

(2) The amount specified in section 8, and the amount determined under sub-section (1) shall carry simple interest at the rate of four per cent per annum for the period commencing on the appointed day and ending on the date on which payment of such amounts is made by the Central Government to the commissioner.

(3) The amounts determined in accordance with the provisions of sub-sections (1) and (2) shall be given by the Central Government to the Company in addition to the amount specified in section 8.

(4) For the removal of doubts, it is hereby declared that the liabilities of the Company in relation to its undertakings which have vested in the Central Government under section 3 shall be discharged from the amount referred to in section 8, and also from the amounts determined under sub-sections (1) and (2), in accordance with the rights and interests of the creditors of the Company.

CHAPTER IV

MANAGEMENT ETC., OF THE UNDERTAKING OF THE COMPANY

10. *Management, etc., of the undertakings of the Company.*—The general Superintendence, direction, control and management of the affairs and business of the undertakings of the Company, the right, title and interest in relation to which have vested in the Central Government under section 3, shall,—

- (a) Where a direction has been given by the Central Government under sub-section (1) of section 6, vest, on and from the date specified in such direction, in the existing Government company specified therein; or
- (b) where a declaration has been made under sub-section (1) of section 7, vest on and from the date of such declaration, in the new Government Company specified therein, deliver and thereupon the existing, or new, Government company so specified, shall be entitled to exercise, to the exclusion of all other persons, all such powers and do all such things as the Company is authorised to exercise and do in relation to its undertakings.

11. *Duty of persons in charge of management of undertakings of the Company to all assets, etc.*—(1) On the vesting of the management of the undertakings of the Company in an existing, or a new, Government company, all persons in charge of the management of the undertaking of the Company immediately before such vesting shall be bound to deliver to such Government company, all assets, books of account, registers and other documents in their custody, relating to the undertakings.

(2) The Central Government may issue such directions as it may deem desirable in the circumstances of the case to the existing, or new, Government company and such Government company may also, if it is considered necessary so to do, apply to the Central Government at any time for instructions as to the manner in which the management of the undertakings of the Company shall be conducted or in relation to any other matter arising in the course of such management.

(3) Any person, who on the appointed day has in his possession or under his control any books, documents or other paper relating to the undertakings of the Company which have vested in the Central Government or in any existing, or new, Government company and which belong to the Company, or would have so belonged if the undertakings of the Company had not vested in the Central Government or the existing, or new, Government company, shall be liable to account for the said books, documents or other papers to the Central Government or the existing, or new, Government company as the case may be, and shall deliver them up to the Central Government or such Government company may specify in this behalf.

(4) The Central Government or the existing, or new, Government company may take, or cause to be taken, all necessary steps for securing possession of all undertakings which have vested in the Central Government or the existing, or new, Government company under this Act.

(5) The Company shall, within such period as the Central Government may allow in this behalf, furnish to that Government a complete inventory of all its properties and assets, as on the appointed day, pertaining to the undertakings which have vested in the Central Government under section 3, and, for this purpose, the Central Government or the existing, or new, Government company shall afford to the Company all reasonable facilities.

12. *Account to be rendered by the Company or any other person.*—(1) Where, in pursuance of any decree, order or injunction of any court or otherwise—

- (a) the authorised persons were, after the date on which the management of the undertakings of the Company was taken over by them under section 18A of the Industries (Development and Regulation) 65 of 1951, and before the appointed day; or
- (b) the Central Government or the existing, or new, Government company, as the case may be, is, on or after the appointed day, prevented from taking over the management of any part of the undertakings of the Company, or any other person in possession, custody or control of such part, shall in relation to the period commencing on the date of such taking over and ending on the date on which such part was or is handed over to the authorised persons or, as the case may be, the Central Government or the existing or new, Government company, render, within a period of sixty days from the appointed day or where such part was so handed over after the appointed day, within a period of sixty days from the date of such handing over, accounts with regard to the :—
 - (i) assets and stores of the undertakings or any part thereof, acquired, utilised or sold during the said period; and
 - (ii) income derived by the Company or any other persons from the undertakings or any part thereof during the said period, to the Central Government or the existing, or new, Government company, as the case may be.

(2) If, on examination of the accounts referred to in sub-section (1), any income or other monies is or are found to have been derived by the Company or any other person from such undertakings or any part thereof during the period referred to in that sub-section, or any other monies, are found to be payable to the Company, such income for other monies shall be recoverable by the Central Government or the existing, or new, Government company from the Company or such other person, as the case may be, and from the amount payable under this Act to the Company and the debt due to the Central Government or the existing, or new, Government company, as the case may be, on this account shall rank as an unsecured debt.

(3) If no account is rendered by the Company or such other person in respect of the undertakings or any part thereof with the period referred to in sub-section (1) or if the Central Government or the existing or new, Government company, as the case may be, has any reason to believe that the account rendered by the Company or such other person is incorrect or false in any material particular, the Central Government or the existing, or new, Government company, as the case may be, refer the matter to the Commissioner and thereupon the Commissioner shall determine the income derived by the Company or such other person from such undertakings or any part thereof during the period referred to in sub-section (1) and take steps to recover the said income or other moneys from the Company or such other person and from the amount payable to the Company under this Act, as if the debt due to the Central Government or the existing, or new, Government company, as the case may be, on this account were a unsecured debt.

(4) No mortgage, charge, lien or other incumbrance in relation to the undertakings of the Company or any part thereof shall be binding on the Central Government or the existing or new, Government company, as the case may be, if such mortgage, charge, lien or other incumbrance was created, at any time during the period in which the authorised person were and the Central Government or the existing, or new, Government company, as the case may be, is, prevented, by any decree, order or injunction of any court or otherwise, from taking over the management of such undertakings or any part thereof.

CHAPTER V

PROVISIONS RELATING TO THE EMPLOYEES OF THE COMPANY

13. (1) *Employment of certain employees to continue.*—(1) Every person who has been, immediately before the appointed day, employed in any of the undertakings of the Company shall become,—

- (a) on and from the appointed day, an employee of the Central Government; and
- (b) where the undertakings of the Company are directed, under sub-section (1) of section 6, to vest in an existing Government company, or are transferred by virtue of the provisions of section 7, to a new Government Company, an employee of such Government company on and from the date of such vesting or transfer,

and shall hold office or service under the Central Government or the existing, or new, Government company, as the case may be, with the same rights and privileges as to pension, gratuity and other matters as would have been admissible to him if there had been no such vesting or transfer and shall continue to do so unless and until his employment under the Central Government or the existing, or new, Government company, as the case may be, is duly terminated or until his remuneration and other conditions of service are duly altered by the Central Government or the existing, or new, Government, as the case may be.

(2) Notwithstanding anything, contained in the Industrial Disputes Act, 1947 (14 of 1947), or in any other law for the time being in force, the transfer of the services of any officer or other person employed in the undertakings of the Company to the Central Government or the existing, or new, Government company, as the case may be, shall not entitle such officer or other employee to any compensation under this Act or under any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.

14. *Provident fund and other funds.*—(1) Where the Company has established a provident fund superannuation fund, welfare fund or other fund for the benefit of the persons employed in the undertakings of the Company, the monies relatable to the employees, whose services have become transferred by or under this Act to the Central Government or the existing, or new, Government company as the case may be, shall, out of the monies standing, on the appointed day, to the credit of such provident, superannuation, welfare or other fund, stand transferred to, and shall vest in, the Central Government or the existing, or new, Government company, as the case may be.

(2) The monies which stand transferred under sub-section (1) to the Central Government or the existing, or new, Government company, as the case may be shall be dealt with by that Government or the existing, or new, Government company in such manner as may be prescribed.

CHAPTER VI

COMMISSIONER OF PAYMENTS

15. *Appointment of Commissioner of Payments.*—(1) The Central Government shall, for the purpose of disbursing the amounts payable under sections 8 and 9, by notification, appoint a Commissioner of Payments.

(2) The Central Government may appoint such other persons as it may think fit to assist the Commissioner and thereupon the Commissioner may authorise one or more of such persons also to exercise all or any of the powers exercisable by him under this Act and different persons may be authorised to exercise different powers.

(3) Any person authorised by the Commissioner to exercise any of the powers exercisable by the Commissioner may exercise those powers in the same manner and with the same effect as if they have been conferred on that person directly by this Act and not by way of authorisation.

(4) The salaries and allowances of the Commissioner and other persons appointed under this section shall be defrayed out of the Consolidated Fund of India.

16. *Payment by Central Government to the Commissioner.*—(1) The Central Government shall, within thirty days from the specified date, pay in cash, to the Commissioner, for payment to the Company —

- (a) an amount equal to the amount specified in section 8 ; and
- (b) an amount equal to the amounts payable to the Company under section 9.

(2) A deposit account shall be opened by the Central Government in favour of the Commissioner, in the Public Account of India, and every amount paid under this Act to the Commissioner shall be deposited by him to the credit of the said deposit account and the said deposit account shall be operated by the Commissioner.

(3) Interest accruing on the amounts standing to the credit of the deposit account referred to in sub-section (2) shall ensure to the said account.

17. *Certain powers of Central Government or existing, or new, Government company.*—(1) The Central Government or the existing, or new, Government company, as the case may be, shall be entitled to receive up to the specified date, to the exclusion of all other persons, any money due to the Company, in relation to its undertakings which have vested in the Central Government or the existing, or new, Government company, as the case may be, and realised after the appointed day, notwithstanding that the realisation pertains to a period prior to the appointed day.

(2) The Central Government or the existing, or new, Government company, as the case may be, may make a claim to the Commissioner with regard to every payment made by it after the appointed day for discharging any liability of the company, in relation to any period prior to the 1st day of April, 1983; and every such claim shall have priority in accordance with the priorities attaching, under this Act, to the matter in relation to which such liability has been discharged by the Central Government or the existing, or new, Government company, as the case may be.

(3) Save as otherwise provided in this Act, the liabilities of the Company in respect of any transaction prior to the 1st day of April, 1983, which have not been discharged on or before the specified date, shall be the liabilities of the Company.

18. *Claims to be made to the Commissioner.*—Every person having a claim against the Company shall prefer such claim before the Commissioner with thirty days from the specified date:

Provided that if the Commissioner is satisfied that the claimant was prevented by sufficient cause from preferring the claim within the said period of thirty days, he may entertain the claim within a further period of thirty days and not thereafter.

19. *Priority of claims.*—The claims arising out of the matters specified in the Schedule shall have priorities in accordance with the following principles :—

- (a) Category I shall have precedence over all other categories and Category II shall have precedence over Category III, and so on ;
- (b) the claims specified in each of the categories shall rank equally and be paid in full, but if the amount is insufficient to meet such claims in full, they shall abate in equal proportions and be paid accordingly ;
- (c) the question of discharging any liability with regard to a matter specified in a lower category shall arise only if a surplus is left after meeting all the liabilities specified in the immediately higher category.

20. *Examination of claims.*—(1) On receipt of the claims made under section 18, the Commissioner shall arrange the claims in the order of priorities specified in the Schedule and examine the same in accordance with such order of priorities.

(2) If, on examination of the claims, the Commissioner is of the opinion that the amount paid to him under this Act is not sufficient to meet the liabilities specified in any lower category, he shall not be required to examine any claim in respect of such lower category.

21. Admission or rejection of claims.—(1) After examining the claims with reference to the priorities set out in the Schedule, the Commissioner shall fix a date on or before which every claimant shall file the proof of his claims, failing which he shall be excluded from the benefit of the disbursements made by the Commissioner.

(2) Not less than fourteen day's notice of the date so fixed shall be given by advertisement in such issue of any daily newspaper in the English language and in such issue of daily newspaper in such regional language as the Commissioner may consider suitable and every such notice shall call upon the claimant to file the proof of his claim with the Commissioner within the time specified in the advertisement.

(3) Every claimant who fails to file the proof of his claim within the time specified by the Commissioner shall be excluded from the disbursements made by the Commissioner.

(4) The Commissioner shall, after such investigation as may, in his opinion, be necessary and after giving the company an opportunity of refuting the claim and after giving the claimant a reasonable opportunity of being heard, by order in writing admit or reject the claim in whole or in part.

(5) The Commissioner shall have the power to regulate his own procedure in all matters arising out of the discharge of his functions including the place or places at which he will hold his sittings and shall, for the purpose of making any investigation under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, (5 of 1908) while trying a suit, in respect of the following matters, namely :—

- (a) the summoning and enforcing the attendance of any witness and examining him on oath ;
- (b) the discovery and production of any document or other material object producible as evidence ;
- (c) the reception of evidence on affidavits ;
- (d) the issuing of any commission for the examination of witnesses.

(6) Any investigation before the Commissioner shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code and the Commissioner shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI (45 of 1860) of the Code of Criminal Procedure, 1973 (2 of 1974).

(7) A claimant who is dissatisfied with the decision of the Commissioner may prefer an appeal against the decision to the principal civil court of original jurisdiction with the local limits of whose jurisdiction the registered office of the Company is situated :

Provided that where a person who is a Judge of a High Court is appointed to be the Commissioner, the appeal shall lie to the High Court at Calcutta and such appeal shall be heard and disposed of by not less than two of that High Court.

22. Disbursement of money by Commissioner to claimants.—After admitting a claim under this Act, the amount due in respect of such claim shall be paid by the Commissioner to the person or persons to whom such amount is due and, on such payment the liability of the Company is in respect of such claim shall stand discharged.

23. Disbursement of amounts to the Company and possession of certain machinery, equipment, etc.—(1) If out of the monies paid to him in relation to the undertakings of the company, there is a balance left after meeting the liabilities in accordance with the priorities specified in the Schedule, the Commissioner shall disburse such balance to the Company.

(2) Where the possession of any machinery, equipment or other property has vested in the Central Government or the existing, or new, Government company under this Act, but such machinery, equipment or other property does not belong to the Company, it shall be lawful for the Central Government or the existing, or new, Government company, as the case may be, to continue to possess such machinery, equipment and other property on the same terms and conditions under which they were possessed by the company immediately before the appointed day.

24. Undisbursed or unclaimed amount to be deposited to the general revenue account.—Any money paid to the Commissioner which remains undisbursed or unclaimed on the date immediately preceding the date on which the office of the Commissioner is finally wound up shall be transferred by the Commissioner to the general revenue account of the Central Government, but a claim to any money so transferred may be preferred to the Central Government by the persons entitled to such payment and shall be dealt with as if such transfer had not been made and the order, if any, for payment of the claim being treated as an order for the refund of the revenue.

CHAPTER VII

MISCELLANEOUS

25. Act to have overriding effect.—The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act, or in any decree or order of any court, tribunal or other authority.

26. Contracts to cease to have effect unless ratified by the Central Government or existing, or new, Government Company.—Every contract entered into by the Company in relation to its undertakings for any service, sale or supply, and in force immediately before the appointed day, shall, on and from the expiry of one hundred and eighty days from that day, cease to have effect unless such contract is, before the expiry of the said period, ratified in writing by the Central Government or, as the case may be, the existing, or new, Government company, and in ratifying such contract, the Central Government or, as the case may be, the existing, or new, Government company may make such alterations or modifications therein as it may think fit ;

Provided that the Central Government or, as the case may be, existing, or new, Government company shall not omit to ratify a contract and shall not make any alteration or modification therein—

- (a) unless it is satisfied that such contract is unduly onerous or has been entered into in bad faith or is detrimental to the interests of the Central Government, or, as the case may be, such Government company ; and

- (b) except after giving the parties to the contract a reasonable opportunity of being heard and except after recording in writing its reasons for its refusal to ratify the contract or for making any alteration or modification therein.

27. Penalties.—A person who,—

- (a) having in his possession, custody or control any property forming part of the undertakings of the Company, wrongfully withholds such property from the Central Government or the existing, or new, Government company, as the case may be, or any person or body of persons authorised by that Government or existing or new, Government company; or
- (b) wrongfully obtains possession of, or retains, any property forming part of any undertaking of the company; or
- (c) wilfully withholds or fails to furnish to the Central Government or, as the case may be, existing, or new, Government company or any person or body of persons authorised by that Government or Government company, any document relating to such undertakings which may be in his possession, custody or control; or
- (d) fails to deliver to the Central Government or, as the case may be, the existing, or new, Government company or any person or body of persons authorised by that Government or existing, or new, Government company any assets, books of account, registers or other documents in his possession, custody or control relating to the undertakings of the company; or
- (e) wrongfully removes or destroys any property forming part of the undertakings of the company or prefers any claim under this Act which he knows or has reasonable cause to believe to be false or grossly inaccurate,

shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to ten thousand rupees, or with both.

28. Offences by companies.—(1) Where an offence under this Act has been committed by a company, every person, who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

- (a) "company" means any body corporate and includes a firm or other association of individuals; and
- (b) "director", in relation to a firm, means a partner in the firm.

29. Protection of action taken in good faith.—(1) No suit, prosecution or other legal proceeding shall lie against the Central Government or the existing, or new, Government company or any officer or other employee of that Government or Government company or any officer or other person authorised by that Government or Government company for anything which is in good faith done or intended to be done under this Act.

(2) No suit or other legal proceeding shall lie against the Central Government or the existing, or new, Government company or any officer or other employee of that Government or Government company or any officer or other person authorised by that Government or Government company for any damage caused or likely to be caused by any thing which is in good faith done or intended to be done under this Act.

30. Delegation of powers.—(1) The Central Government may, by notification, direct that all or any of the powers exercisable by it under this Act, other than the power conferred by this section or section 31 or section 32, may also be exercised by such person or persons as may be specified in the notification.

(2) Whenever any delegation of power is made under sub-section (1), the person to whom such power has been delegated shall act under the direction, control and supervision of the Central Government.

31. Power to make rules.—(1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the time within which, and the manner in which, an intimation referred to in sub-section (3) of section 4 shall be given;
- (b) the manner in which monies in any provident fund or other fund referred to in section 14 shall be dealt with;
- (c) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in

such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of any thing previously done under that rule.

32. *Power to remove difficulties.*—If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty :

Provided that no such order shall be made after the expiry of a period of two years from the appointed day.

THE SCHEDULE

(See sections 19, 20, 21 and 23)

ORDER OF PRIORITIES FOR THE DISCHARGE OF THE LIABILITIES OF THE COMPANY

Part-A.—Post-take-over and pre-take-over periods

Category I—

Wages, salaries and other dues of the employees of the Company for the post-take-over period as well as arrears in relation to wages, salaries, provident fund and other dues of the employees for the pre-take-over period, including the contribution to be made to the Employees State Insurance Fund and additional dearness allowance payable to employees.

Part-B.—Post-take-over period.

Category II—

- (a) Loans advanced by the Central Government and interest due thereon .
- (b) Loans advanced by banks and financial institutions, guaranteed by the Central Government and interest due thereon.
- (c) Other loans.

Category III—

Credit availed of for purposes of trade or manufacturing operations.

Category IV—

- (a) Revenue, taxes, cesses, rates or other dues to the Central Government or a State Government.
- (b) Any other dues.

Part-C.—Pre-take-over-period.

Category V—

Principal amount means advanced by banks and financial institutions and interest thereon up to and including 18th May, 1978 that is to say, the date on which the notified order under section 18A of the Industries (Development and Regulations) Act, 1951 (65 of 1951), was published in the Official Gazette.

Category VI—

Revenue, taxes, cesses, rates or any other dues payable to the Central Government or a State Government or a local authority .

Category VII—

Amounts, due by way of interest on loans referred to in category V after 18th May, 1978 up to the date preceding the appointed day.

Category VIII—

- (a) Any other credit availed of for purposes of trade or manufacturing operations.
- (b) Any other dues.

Assented to on 26th August, 1984

THE CONSTITUTION (FORTY-SEVENTH AMENDMENT) ACT, 1984

(ACT No.OF 1984)

AN

ACT

further to amend the Constitution of India

BE it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Constitution (Forty-seventh Amendment) Act, 1984.

2. *Amendment of the Ninth Schedule.*—In the Ninth Schedule to the Constitution, after entry 188 and before the *Explanation*, the following entries shall be inserted, namely:—

- “189. The Assam (Temporarily Settled Areas) Tenancy Act, 1971 (Assam Act XXIII of 1971).
190. The Assam (Temporarily Settled Areas) Tenancy (Amendment) Act, 1974 (Assam Act XVIII of 1974).
191. The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment)(Amending) Act, 1974 (Bihar Act 13 of 1975).
192. The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 1976 (Bihar Act 22 of 1976).
193. The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 1978 (Bihar Act VII of 1978).
194. The Land Acquisition (Bihar Amendment) Act, 1979 (Bihar Act 2 of 1980).
195. The Haryana Ceiling on Land Holdings (Amendment) Act, 1977 (Haryana Act 14 of 1977).
196. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Amendment Act, 1978 (Tamil Nadu Act 25 of 1978).
197. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Amendment Act, 1979 (Tamil Nadu Act 11 of 1979).
198. The Uttar Pradesh Zamindari Abolition Laws (Amendment) Act, 1978 (Uttar Pradesh Act 15 of 1978).
199. The West Bengal Restoration of Alienated Land (Amendment) Act, 1978 (West Bengal Act XXIV of 1978).
200. The West Bengal Restoration of Alienated Land (Amendment) Act, 1980 (West Bengal Act LVI of 1980).
201. The Goa, Daman and Diu Agricultural Tenancy Act, 1964 (Goa, Daman and Diu Act 7 of 1964).
202. The Goa, Daman and Diu Agricultural Tenancy (Fifth Amendment) Act, 1976 (Goa, Daman and Diu Act 17 of 1976)”.

Assented to on 26th August, 1984.

THE CONSTITUTION (FORTY-EIGHTH AMENDMENT) ACT, 1984

(ACT No..... OF 1984)

AN

ACT

further to amend the Constitution of India

BE it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Constitution (Forty-eighth Amendment) Act, 1984.
2. *Amendment of article 356.*—In article 356 of the Constitution, in clause (5), the following proviso shall be inserted at the end, namely:—

‘Provided that in the case of the Proclamation issued under clause (1) on the 6th day of October, 1983 with respect to the State of Punjab, the reference in this clause to “any period beyond the expiration of one year” shall be construed as a reference to “any period beyond the expiration of two years”’.

Assented to on 11th September 1984

THE CONSTITUTION (FORTY-NINTH AMENDMENT) ACT, 1984

(ACT No..... OF 1984)

AN

ACT

Further to amend the Constitution of India

BE it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Constitution (Forty-ninth Amendment) Act, 1984.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
2. *Amendment of article 244.*—In article 244 of the Constitution, in clauses (1) and (2), for the words “and Meghalaya”, the words “Meghalaya and Tripura” shall be substituted.
3. *Amendment of the Fifth Schedule.*—In the Fifth Schedule to the Constitution, in paragraph 1, for the words “and Meghalaya”, the words “Meghalaya and Tripura” shall be substituted.

विचार कि
पद के अर्थ
परन्तु
की अपेक्षा
अप्राप्त हो
विचार के
हैं

4. *Amendment of the Sixth Schedule.*—In the Sixth Schedule to the Constitution,—

- (a) in the heading, for the words “and Meghalaya”, the words “Meghalaya and Tripura” shall be substituted;
- (b) in sub-paragraph (1) of paragraph 1, for the words and figures “Parts I and II”, the words, figures and letter “Parts I, II and IIA” shall be substituted;
- (c) after paragraph 12A, the following paragraph shall be inserted, namely:—

“12AA. *Application of Acts of Parliament and of the Legislature of the State of Tripura to the autonomous district and autonomous regions in the State of Tripura.*—Notwithstanding anything in this Constitution,—

- (a) if any provision of a law made by the District or a Regional Council in the State of Tripura with respect to any matter specified in sub-paragraph (1) of paragraph 3 of this Schedule or if any provision of any regulation made by the District Council or a Regional Council in that State under paragraph 8 or paragraph 10 of this Schedule, is repugnant to any provision of a law made by the Legislature of the State of Tripura with respect to that matter, then, the law or regulation made by the District Council or, as the case may be, the Regional Council whether made before or after the law made by the Legislature of the State of Tripura, shall, to the extent of repugnancy, be void and the law made by the Legislature of the State of Tripura shall prevail;
- (b) the President may, with respect to any Act of Parliament, by notification, direct that it shall not apply to the autonomous district or an autonomous region in the State of Tripura, or shall apply to such district or region or any part thereof subject to such exceptions or modifications as he may specify in the notification and any such direction may be given so as to have retrospective effect.”;

(d) in paragraph 17, after the words “or Meghalaya”, at both the places where they occur, the words “or Tripura” shall be inserted ;

(e) in paragraph 20,—

(i) in sub-paragraph (1),—

(A) after the words and figures “in Parts I, II”, the figures and letter “, IIA” shall be inserted;

(B) after the words “the State of Meghalaya”, the words “, the State of Tripura” shall be inserted ;

(ii) in sub-paragraph (2), for the words “Any reference in the table below”, the words and figures “Any reference in Part I, Part II or Part III of the table below” shall be substituted ;

(iii) after sub-paragraph (2), the following sub-paragraph shall be inserted, namely:—

“(3) The reference in Part IIA in the table below to the “Tripura Tribal Area District” shall be construed as a reference to the territory comprising the tribal areas specified in the First Schedule to the Tripura Tribal Areas Autonomous District Council Act, 1979.”;

(f) in the Table, after Part II and the entries relating thereto, the following Part shall be inserted, namely:—

“PART IIA

Tripura Tribal Areas District.”.

Assented to on 19th September, 1984.

THE CONSTITUTION (FIFTIETH AMENDMENT) ACT, 1984

(ACT NO..... OF 1984)

AN

ACT

further to amend the Constitution of India

BE it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Constitution (Fiftieth Amendment) Act, 1984.

2. *Substitution of article 33.*—For article 33 of the Constitution, the following article shall be substituted, namely:—

“33. *Power of Parliament to modify the rights conferred by this Part in their application to Forces, etc.*—Parliament may, by law, determine to what extent any of the right conferred by this Part shall, in their application to,—

(a) the members of the Armed Forces; or

(b) the members of the Forces charged with the maintenance of public order ; or

(c) persons employed in any bureau or other organisation established by the State for purposes of intelligence or counter intelligence ; or

- (d) persons employed in, or in connection with, the telecommunication systems set up for the purposes of any Force, bureau or organisation referred to in clauses (a) to (c),

be restricted or abrogated so as to ensure the proper discharge of their duties and the maintenance of discipline, among them".

Assented to on 30th August, 1984

THE CONSERVATION OF FOREIGN EXCHANGE AND PREVENTION OF SMUGGLING
ACTIVITIES (AMENDMENT) ACT, 1984

(Act No. 58 OF 1984)

AN

ACT

*further to amend the Conservation of Foreign Exchange and Prevention of Smuggling
Activities Act, 1974*

BE it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows;

1. *Short title and commencement.*—(1) This Act may be called the Conservation of Foreign Exchange and Prevention of Smuggling Activities (Amendment) Act, 1984.

(2) It shall be deemed to have come into force on the 13th day of July, 1984.

2. *Substitution of new section for section 9.*—In the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) (hereinafter referred to as the principal Act), for section 9, the following section shall be substituted, namely:—

'9. Cases in which and circumstances under which persons may be detained for periods longer than three months without obtaining the opinion of Advisory Board.—(1) Notwithstanding any thing contained in this Act, any person (including a foreigner) in respect of whom an order of detention is made under this Act at any time before the 31st day of July, 1987, may be detained without obtaining in accordance with the provisions of sub-clause (a) of clause (4) of article 22 of the Constitution, the opinion of an Advisory Board for a period longer than three months but not exceeding six months from the date of his detention, where the order of detention has been made against such person with a view to preventing him from smuggling goods or abetting the smuggling of goods or engaging in transporting or concealing or keeping smuggled goods and the Central Government or any officer of the Central Government; not below the rank of an Additional Secretary to that Government, specially empowered for the purposes of this section by that Government, is satisfied that such person—

(a) smuggles or is likely to smuggle goods into, out of or through any area highly vulnerable to smuggling ; or

(b) abets or is likely to abet the smuggling of goods into, out of or through any area highly vulnerable to smuggling ; or

(c) engages or is likely to engage in transporting or concealing or [keeping] smuggled goods in any area highly vulnerable to smuggling,

and makes a declaration to that effect within five weeks of the detention of such person.

Explanation 1.—In this sub-section, "area highly vulnerable to smuggling" means—

(i) the Indian customs waters contiguous to the States of Gujarat, Karnataka, Kerala, Maharashtra and Tamil Nadu and the Union territories of Goa, Daman and Diu and Pondicherry ;

(ii) the inland area fifty kilometres in width from the coast of India falling within the territories of the States of Gujarat, Karnataka, Kerala, Maharashtra and Tamil Nadu and the Union territories of Goa, Daman and Diu and Pondicherry ;

(iii) the inland area fifty kilometres in width from the India-Pakistan border in the States of Gujarat, Jammu and Kashmir, Punjab and Rajasthan ;

(iv) the customs airport of Delhi ; and

(v) such further or other Indian customs waters, or inland area not exceeding one hundred kilometres in width from any other coast or border of India, or such other customs station, as the Central Government may, having regard to the vulnerability of such waters, area or customs station, as the case may be, to smuggling, by notification in the Official Gazette, specify in this behalf.

Explanation 2.—For the purposes of Explanation 1, "customs airport" and "customs station" shall have the same meaning as in clauses (10) and (13) of section 2 of the Customs Act, 1962, (52 of 1962) respectively.

(2) In the case of any person detained under a detention order to which the provisions of sub-section (1) apply, section 8 shall have effect subject to the following modifications, namely:—

(i) in clause (b), for the words "shall, within five weeks", the words "shall within four months and two weeks" shall be substituted ;

(ii) in clause (c),—

(1) for the words “the detention of the person concerned”, the words “the continued detention of the person concerned” shall be substituted ;

(2) for the words “eleven weeks”, the words “five months and three weeks” shall be substituted ;

(iii) in clause (j), for the words “for the detention”, at both the places where they occur, the words “for the continued detention” shall be substituted.’

3. *Repeal and saving.*—(1) The Conservation of Foreign Exchange and Prevention of Smuggling Activities (Amendment) Ordinance, 1984 (8 of 1984), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

Assented to on 30-8-1984.

THE UNIVERSITY GRANTS COMMISSION (AMENDMENT) ACT, 1984

AN

ACT

further to amend the University Grants Commission Act, 1956

Be it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the University Grants Commission (Amendment) Act, 1984.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Amendment of section 12.*—In section 12 of the University Grants Commission Act, 1956 (of 1956) (hereinafter referred to as the principal Act), after clause (cc), the following clause shall be inserted, namely:—

“(ccc) establish, in accordance with the regulations made under this Act, institutions for providing common facilities, services and programmes for a group of universities or for the universities in general and maintain such institutions or provide for their maintenance by allocating and disbursing out of the Fund of the Commission such grants as the Commission may deem necessary;”.

3. *Insertion of new section 12A.*—In the principal Act, section 12A shall be renumbered as section 12 B, and before section 12B as so renumbered, the following section shall be inserted, namely:—

‘12A. *Regulation of fees and prohibition of donation in certain cases.*—(1) in this section,—

(a) “affiliation”, together with its grammatical variations, includes, in relation to a college, recognition of such college by, association of such college with, and admission of such college to the privileges of, a university ;

(b) “college”, means any institution, whether known as such or by any other name which provides for a course of study for obtaining any qualification from a university and which, in accordance with the rules and regulations of such university, is recognised as competent to provide for such course of study and present students undergoing such course of study for the examination for the award of such qualification ;

(c) “prosecution”, in relation to a course of study, includes promotion from one part or stage of the course of study to another part or stage of the course of study ;

(d) “qualification” means a degree or any other qualification awarded by a university ;

(e) “regulations”, means regulations made under this Act ;

f) “specified course of study”, means a course of study in respect of which regulations of the nature mentioned in sub-section (2) have been made ;

(g) “student” includes person seeking admission as a student ;

(h) “university” means a university or institution referred to in sub-section (1) of section 22.

(2) Without prejudice to the generality of the provisions of section 12, if, having regard to—

(a) the nature of any course of study for obtaining any qualification from any university;

(b) the types of activities in which persons obtaining such qualification are likely to be engaged on the basis of such qualification;

(c) the minimum standards which a person possessing such qualification should be able to maintain in his work relating to such activities and the consequent need for ensuring, so far as may be, that no candidate secures admission to such course of study by reason of economic power and hereby prevents a more meritorious candidate from securing admission to such course of study: and

(d) all other relevant factors,

the Commission is satisfied that it is necessary so to do in the public interest, it may, after consultation with the university or universities concerned, specify by regulations the matters in respect of which fees may be charged, and the scale of fees in accordance with which fees shall be charged in respect of those matters on and from such date as may be specified in the regulations in this behalf, by any college providing for such course of study from, or in relation to, any student in connection with his admission to, and prosecution of, such course of study :

Provided that different matters and different scales of fees may be so specified in relation to different universities or different classes of colleges or different areas.

(3) Where regulations of the nature referred to in sub-section (2) have been made in relation to any course of study, no college providing for such course of study—

- (a) levy or charge fees in respect of any matter other than a matter specified in such regulations ;
- (b) levy or charge any fees in excess of the scale of fees specified in such regulations, or
- (c) accept, either directly or indirectly, any payment (otherwise than by way of fees) or any donation or gift (whether in cash or kind).

from, or in relation to, any student in connection with his admission to, and prosecution of, such course of study.

(4) If, after making, in relation to a college providing for a specified course of study, an inquiry in the manner provided by regulations, and after giving such college a reasonable opportunity of being heard, the Commission is satisfied that such college has contravened the provisions of sub-section (3), the Commission may, with the previous approval of the Central Government, pass an order prohibiting such college from presenting any students then undergoing such course of study therein to any university for the award of the qualification concerned.

(5) The Commission shall forward a copy of the order made by it under sub-section (4) to the university concerned, and on and from the date of receipt by the university of a copy of such order, the affiliation of such college to such university shall, in so far as it relates to the course of study specified in such order, stand terminated and on and from the date of termination of such affiliation and for a period of three years thereafter affiliation shall not be granted to such college in relation to such or similar course of study by that or any other university.

(6) On the termination of the affiliation of any college under sub-section (5) the Commission shall take all such steps as it may consider appropriate for safeguarding the interests of the students concerned.

(7) The provisions of this section and the regulations made for the purposes of this section shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

4. *Amendment of section 14.*—In section 14 of the principal Act, after the words “If any University”, the words, brackets, figures and letter “grants affiliation in respect of any course of study to any college referred to in sub-section (5) of section 12A in contravention of the provisions of that sub-section or” shall be inserted.

5. *Amendment of section 25.*—In section 25 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) The power to make rules conferred by this section shall include the power to give retrospective effect from a date not earlier than the date of commencement of this Act, to the rules or any of them but no retrospective effect shall be given to any rule so as to prejudicially affect the interests of any person to whom such rule may be applicable.”.

6. *Amendment of section 26.*—In section 26 of the principal Act,—

(a) in sub-section (1),—

(i) in the opening paragraph, for the words “may make regulations”, the words “may, by notification in the Official Gazette, make regulations” shall be substituted ;

(ii) after clause (g), the following clauses shall be inserted, namely:

“(h) regulating the establishment of institutions referred to in clause (ccc) of section 12 and other matters relating to such institutions ;

(i) specifying the matters in respect of which fees may be charged, and scales of fees in accordance with which fees may be charged, by a college under sub-section (2) of section 12A ;

(j) specifying the manner in which an inquiry may be conducted under sub-section (4) of section 12A ;”;

(b) in sub-section (2), after the word, brackets and letter “clause (d)”, the words, brackets and letters, “or clause (h) or clause (i) or clause (j)” shall be inserted ;

(c) after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) The power to make regulations conferred by this section [except clause (i) and clause (j) of sub-section (1)] shall include the power to give retrospective effect from a date not earlier than the date of commencement of this Act, to the regulations or any of them but no retrospective effect shall be given to any regulation so as to prejudicially affect the interests of any person to whom such regulation may be applicable.”.

7. *Amendment of section 27.*—In section 27 of the principal Act, in sub-section (1), for the words “by regulations made”, the words “by regulations made, by notification in the Official Gazette,” shall be substituted.

8. *Insertion of new section 28.*—After section 27 of the principal Act, the following section shall be inserted, namely:—

“28. *Laying of rules and regulations before Parliament.*—Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for

a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session, or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation."

9. *Validation.*—No rule made, or purporting to have been made, with retrospective effect, under section 25 of the principal Act before the commencement of this Act shall be deemed to have been invalid or ever to have been invalid merely on the ground that such rule was made with retrospective effect and accordingly every such rule and every action taken or thing done thereunder shall be as valid and effective as if the provisions of section 25 of the principal Act, as amended by this Act, were in force at all material times when such rule was made or action or thing was taken or done.

Assented to on 31st August, 1984

THE NATIONAL SECURITY (SECOND AMENDMENT) ACT, 1984

(ACT No. 60 OF 1984)

AN

ACT

further to amend the National Security Act, 1980

Be it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the National Security (Second Amendment) Act, 1984.

(2) It shall be deemed to have come into force on the 21st day of June, 1984.

2. *Insertion of new section 5A.*—In the National Security Act, 1980 (65 of 1980) (hereinafter referred to as the principal Act), after section 5, the following section shall be inserted, namely:—

"5A. *Grounds of detention severable.*—Where a person has been detained in pursuance of an order of detention [whether made before or after the commencement of the National Security (Second Amendment) Act, 1984] under section 3 which has been made on two or more grounds, such order of detention shall be deemed to have been made separately on each of such grounds and accordingly—

(a) such order shall not be deemed to be invalid or inoperative merely because one or some of the grounds is or are—

(i) vague,

(ii) non-existent,

(iii) not relevant,

(iv) not connected or not proximately connected with such person, or

(v) invalid for any other reason whatsoever.

and it is not, therefore, possible to hold that the Government or officer making such order would have been satisfied as provided in section 3 with reference to the remaining ground or grounds and made the order of detention ;

(b) the Government or officer making the order of detention shall be deemed to have made the order of detention under the said section after being satisfied as provided in that section with reference to the remaining ground or grounds."

3. *Amendment of section 14.*—In section 14 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) The expiry or revocation of a detention order (hereafter in this sub-section referred to as the earlier detention order) shall not [whether such earlier detention order has been made before or after the commencement of the National Security (Second Amendment) Act, 1984] bar the making of another detention order (hereafter in this sub-section referred to as the subsequent detention order) under section 3 against the same person :

Provided that in a case where no fresh facts have arisen after the expiry or revocation of the earlier detention order made against such person, the maximum period for which such person may be detained in pursuance of the subsequent detention order shall, in no case, extend beyond the expiry of a period of twelve months from the date of detention under the earlier detention order."

4. *Amendment of section 14A.*—In the principal Act as applicable to the State of Punjab and the Union territory of Chandigarh, in section 14A, in sub-section (2),—

(i) in the opening portion, for the words and figures "sections 10 to 13", the words and figures "section 10 to 14" shall be substituted ;

(ii) after clause (d), the following clause shall be inserted, namely:—

'(e) in section 14, in the proviso to sub-section (2), for the words "twelve months", the words "two years" shall be substituted.'

5. *Repeal and saving.*—(1) The National Security (Second Amendment) Ordinance, 1984 (6 of 1984) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

Assented to on 31st August, 1984

THE TERRORIST AFFECTED AREAS (SPECIAL COURTS) ACT, 1984

(ACT No. 61 OF 1984)

AN

ACT

to provide for the speedy trial of certain offences in terrorist affected areas and for matters connected therewith.

BE it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Terrorist Affected Areas (Special Courts) Act, 1984.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall be deemed to have come into force on the 14th day of July, 1984.

2. *Definitions.*—(1) In this Act, unless the context otherwise requires,—

(a) “Code” means the Code of Criminal Procedure, 1973 (2 of 1974);

(b) “High Court”, in relation to a Special Court, means the High Court within the territorial limits of whose jurisdiction such Special Court is proposed to be, or is, established;

(c) “judicial zone” means a judicial zone constituted under sub-section (1) of section 3;

(d) “notification” means a notification published in the Official Gazette;

(e) “Public Prosecutor” means a Public Prosecutor or an Additional Public Prosecutor or a Special Public Prosecutor appointed under section 9 and includes any person acting under the directions of the Public Prosecutor;

(f) “scheduled offence” means an offence specified in the Schedule being an offence committed in a terrorist affected area;

(g) “Special Court” means a Special Court or an Additional Special Court established under section 4;

(h) “terrorist” means a person who indulges in wanton killing of persons or in violence or in the disruption of services or means of communications essential to the community or in damaging property with a view to—

(i) putting the public or any section of the public in fear; or

(ii) affecting adversely the harmony between different religious, racial, language or regional groups or castes or communities; or

(iii) coercing or overawing the Government established by law; or

(iv) endangering the sovereignty and integrity of India;

(i) “terrorist affected area” means an area declared as a terrorist affected area under section 3;

(j) words and expressions used but not defined in this Act and defined in the Code shall have the meanings respectively assigned to them in the Code.

(2) Any reference in this Act to the Code or any provision thereof shall in relation to an area in which the Code such provision is not in force, be construed as a reference to the corresponding law or the relevant provision of the or corresponding law, if any, in force in that area.

3. *Declaration of terrorist affected area.*—(1) If the Central Government is of the opinion that offences of the nature specified in the Schedule are being committed in any area by terrorists on such a scale and in such a manner that it is expedient for the purpose of coping with the activities of such terrorists to have recourse to the provisions of this Act, it may, by notification,—

(a) declare such area to be a terrorist affected area; and

(b) constitute such area into a single judicial zone or into as many judicial zones as it may deem fit.

(2) A notification issued under sub-section (1) in respect of an area shall specify the period during which the area shall, for the purposes of this Act, be a terrorist affected area, and where the Central Government is of the opinion that terrorists had been committing in that area, from a date earlier than the date of issue of the notification, offences of the nature specified in the Schedule on such a scale in such a manner that it is expedient to commence the period specified in the notification from such earlier date, the period specified in the notification may commence from that date;

Provided that—

(a) no period commencing from a date earlier than six months from the date of publication of the notification shall be specified therein; and

(b) so much of the period specified in such notification as is subsequent to the date of publication of the notification shall not, in the first instance, exceed six months, but the Central Government may, by notification, extend such period from time to time by any period not exceeding six months at any one time, if the Central Government, having regard to the activities of terrorists in such area, is of the opinion that it is expedient so to do.

Explanation.—For the avoidance of doubts, it is hereby declared that the period specified in a notification issued under this section may commence from a date earlier than the date of commencement of this Act.

4 Establishment of Special Courts.—(1) For the purpose of providing for speedy trial of scheduled offences committed in a judicial zone, the Central Government may establish, by notification, a Special Court in relation to such judicial zone—

(a) within such judicial zone; or

(b) if the Central Government having regard to the exigencies of the situation prevailing in such judicial zone considers it expedient so to do, at any place outside such judicial zone but within the State in which such judicial zone is situated.

(2) Notwithstanding any thing contained in sub-section (1), if having regard to the exigencies of the situation prevailing in a State, the Government is of the opinion that it is expedient to establish in relation to a judicial zone, or in relation to two or more judicial zones, in the State, an Additional Special Court outside the State, for the trial of such scheduled offences committed in the judicial zone or judicial zones, the trial whereof within the State—

(a) is not likely to be fair or impartial or completed with utmost dispatch; or

(b) is not likely to be feasible without occasioning a breach of peace or grave risk to the safety of the accused, the witnesses, the Public Prosecutor and the Judge or any of them; or

(c) is not otherwise in the interests of justice,

the State Government may request the Central Government to establish in relation to such judicial zone or judicial zones an Additional Special Court outside the State and thereupon the Central Government may, after taking into account the information furnished by the State Government and making such inquiry, if any, as it may deem fit, establish, by notification, such Additional Special Court at such place outside the State as may be specified in the notification.

5. Composition and appointment of Judges of Special Courts.—(1) A Special Court shall be presided over by a Judge to be appointed by the Central Government with the concurrence of the Chief Justice of the High Court.

(2) The Central Government may also appoint, with the concurrence of the Chief Justice of the High Court, Additional Judges to exercise jurisdiction in a Special Court.

(3) A person shall not be qualified for appointment as a Judge or an Additional Judge of a Special Court unless he is immediately before such appointment a Sessions Judge or an Additional Session Judge in any State.

(4) For the removal of doubts, it is hereby provided that the attainment by a person, appointed as a Judge or an Additional Judge of a Special Court, of age of superannuation under the rules applicable to him in the Service to which he belongs, shall not affect his continuance as such Judge or Additional Judge.

(5) Where any Additional Judge or Additional Judges is, or are, appointed in a Special Court, the Judge of the Special Court may, from time to time, by general or special order, in writing, provide for the distribution of business of the Special Court among himself and the Additional Judge or Additional Judges and also for the disposal of urgent business in the event of his absence or the absence of any Additional Judge.

6. Place of sitting.—A Special Court may, if it considers it expedient or desirable so to do, sit for any of its proceedings at any place, other than the ordinary place of its sitting, in the State in which it is established:

Provided that if the Public Prosecutor certifies to the Special Court that it is in his opinion necessary for the protection of the accused or any witness or otherwise expedient in the interests of justice that the whole or any part of the trial should be held at some place other than the ordinary place of its sitting, the Special Court may, after hearing the accused make an order to that effect unless, for reasons to be recorded in writing, the Special Court thinks fit to make any other order.

7. Jurisdiction of Special Court.—(1) Notwithstanding anything contained in the Code or any other law a scheduled offence committed in a judicial zone in a State at any time during the period during which such judicial zone is, or is part of, a terrorist affected area shall be triable, whether during or after the expiry of such period, only by the Special Court established for such judicial zone in the State:

Provided that where the period specified under sub-section (2) of section 3 as the period during which an area declared by notification under sub-section (1) of that section to be a terrorist affected area commences from a date earlier than the date on which such notification is issued, then—

(a) nothing in the foregoing provisions of this sub-section shall apply to a scheduled offence committed in such area in which the whole of the evidence for the prosecution has been taken before the date of issue of such notification; and

(b) all other cases involving scheduled offences committed in such area and pending before any court immediately before the date of issue of such notification shall stand transferred to the Special Court having

jurisdiction under this section and the Special Court to which such proceedings stand transferred shall proceed with such cases from the stage at which they were pending at that time.

(2) Notwithstanding anything contained in sub-section (1), if in respect of a case involving a scheduled offence committed in any judicial zone in a State, the Central Government, having regard to the provisions of sub-section (2) of section 4 and the fact and circumstances of the case and all other relevant factors, is of the opinion that it is expedient that such offence should be tried by the Additional Special Court established in relation to such judicial zone outside the State, the Central Government may make a declaration to that effect :

Provided that no such declaration shall be made unless the State Government has forwarded to the Central Government a report in writing containing a request for making of such declaration.

Explanation.—Where an Additional Special Court is established in relation to two or more judicial zones, such Additional Special Court shall be deemed, for the purposes of this sub-section, to have been established in relation to each of such judicial zones.

(3) A declaration made under sub-section (2) shall not be called in question in any court.

(4) Where any declaration is made in respect of any offence committed in a judicial zone in a State, any prosecution in respect of such offence shall be instituted only in the Additional Special Court established in relation to such judicial zone outside the State, and if any prosecution in respect of such offence is pending immediately before such declaration in any other court, the same shall stand transferred to such Additional Special Court and such Additional Special Court shall proceed with such case from the stage at which it was pending at that time.

8. *Powers of Special Courts with respect to other offences.*—(1) When trying any scheduled offence, a Special Court may also try any offence other than the scheduled offence with which the accused may, under the Code, be charged at the same trial if the offence is connected with the scheduled offence.

(2) If, in the course of any trial under this Act, it is found that the accused person has committed any offence, the Special Court may, whether such offence is or is not a scheduled offence, convict such person of such offence and pass any sentence authorised by law for the punishment thereof.

9. *Public Prosecutors.*—(1) For every Special Court, the Central Government shall appoint a person to be the Public Prosecutor and may appoint one or more persons to be the Additional Public Prosecutor or Additional Public Prosecutors :

Provided that the Central Government may also appoint for any case or class of cases a Special Public Prosecutor.

(2) A person shall be eligible to be appointed as a Public Prosecutor or an Additional Public Prosecutor or a Special Public Prosecutor under this section only if he has been in practice as an Advocate for not less than seven years or has held any post, for a period of not less than seven years, under the Union or a State, requiring special knowledge of law.

(3) Every person appointed as a Public Prosecutor or an Additional Public Prosecutor or a Special Public Prosecutor under this section shall be deemed to be a Public Prosecutor within the meaning of clause (a) of section 2 of the Code, and the provisions of the Code shall have effect accordingly.

10. *Procedure and powers of Special Courts.*—(1) A Special Court may take cognizance of any scheduled offence, without the accused being committed to it for trial, upon receiving a complaint of facts which constitute such offence or upon a police report of such facts.

(2) Where a scheduled offence is punishable with imprisonment for a term not exceeding three years or with fine or with both, a Special Court may, notwithstanding anything contained in sub-section (1) of section 260 or section 262 of the Code, try the offence in a summary way in accordance with the procedure prescribed in the Code and the provisions of section 263 to 265 of the Code, shall, so far as may be, apply to such trial :

Provided that when, in the course of a summary trial under this sub-section, it appears to the Special Court that the nature of the case is such that it is undesirable to try it in a summary way, the Special Court shall recall any witnesses who may have been examined and proceed to re-hear the case in the manner provided by the provisions of the Code for the trial of such offence and the said provisions shall apply to and in relation to a Special Court as they apply to and in relation to a Magistrate :

Provided further that in the case of any conviction in a summary trial under this section, it shall be lawful for a Special Court to pass a sentence of imprisonment for a term not exceeding two years.

(3) A Special Court may, with a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in, or privy to, an offence, tender a pardon to such person on condition of his making a full and true disclosure of the whole circumstances within his knowledge relative to the offence and to every other person concerned whether as principal or abettor in the commission thereof, and any pardon so tendered shall, for the purposes of section 308 of the Code, be deemed to have been tendered under section 307 thereof.

(4) Subject to the other provisions of this Act, a Special Court shall, for the purpose of trial of any offence, have all the powers of a Court of Session and shall try such offence as if it were a Court of Session so far as may be in accordance with the procedure prescribed in the Code for the trial before a Court of Session.

(5) Subject to the other provisions of this Act, every case before an Additional Special Court shall be dealt with as if such case had been transferred under section 406 of the Code to such Additional Special Court.

11. *Power of Supreme Court to transfer case.*—Whenever it is made to appear to the Supreme Court that an order under this section is expedient for the ends of justice, it may direct that any particular case be transferred from one Special Court to another Special Court.

12. Protection of witnesses.—(1) Notwithstanding anything contained in the Code, all proceedings before a Special Court shall be conducted *in camera* :

Provided that where the Public Prosecutor so applies, any proceedings or part thereof may be held in open court.

(2) A Special Court may, on an application made by a witness in any proceedings before it or by the Public Prosecutor in relation to such witness or on its own motion, take such measures as it deems fit for keeping the identity and address of the witness secret.

(3) In particular and without prejudice to the generality of the provisions of sub-section (2), the measures which a Special Court may take under that sub-section may include—

- (a) the holding of the proceedings at a protected place ;
- (b) the avoiding of the mention of the names and addresses of the witnesses in its orders or judgments or in any records of the case accessible to public ;
- (c) the issuing of any directions for securing that the identity and addresses of the witnesses are not disclosed.

(4) Any person who contravenes any direction issued under sub-section (2) shall be punishable with imprisonment for a term which may extend to one year and with fine which may extend to one thousand rupees.

13. Power to transfer cases to regular courts.—Where after taking cognizance of any offence, a Special Court is of opinion that the offence is not a scheduled offence, it shall, notwithstanding that it has no jurisdiction to try such offence, transfer the case for trial of such offence to any court having jurisdiction under the Code and the court to which the case is transferred may proceed with the trial of the offence as if it has taken cognizance of the offence.

14. Appeal.—(1) Notwithstanding anything contained in the Code, an appeal shall lie as a matter of right from any judgment, sentence or order, not being interlocutory order, of a Special Court to the Supreme Court both on facts and on law.

(2) Except as aforesaid, no appeal or revision shall lie to any court from any judgment, sentence or order of a Special Court.

(3) Every appeal under this section shall be preferred within a period of thirty days from the date of the judgment, sentence or order appealed from :

Provided that the Supreme Court may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of thirty days.

15. Modified application of certain provisions of the Code.—(1) Notwithstanding anything contained in the Code or any other law, every scheduled offence shall be deemed to be a cognizable offence within the meaning of clause (c) of section 2 of the Code and "cognizable case" as defined in that clause shall be construed accordingly.

(2) Section 167 of the Code shall apply in relation to a case involving a scheduled offence subject to the modifications that—

- (a) the reference in sub-section (1) thereof to "Judicial Magistrate" shall be construed as a reference to "Judicial Magistrate or Executive Magistrate" ;
- (b) the references in sub-section (2) thereof to "fifteen days" "ninety days" and "sixty days", wherever they occur, shall be construed as references to "thirty days", "one year" and "one year", respectively ; and
- (c) sub-section (2A) thereof shall be deemed to have been omitted.

(3) Sections 366 to 371 and section 392 of the Code shall apply in relation to a case involving a scheduled offence subject to the modifications that the references to "Court of Session" and "High Court", wherever occurring therein, shall be construed as references to "Special Court" and "Supreme Court", respectively.

(4) Nothing in section 438 of the Code shall apply in relation to any case involving the arrest of any person on an accusation of having committed a scheduled offence in a terrorist affected area.

(5) Notwithstanding anything contained in the Code, no person accused of a scheduled offence shall, if in custody, be released on bail or on his own bond unless—

- (a) the Public Prosecutor has been given an opportunity to oppose the application for such release, and
- (b) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

(6) The limitations on granting of bail specified in sub-section (5) are in addition to the limitations under the Code or any other law for the time being in force on granting of bail.

16. Overriding effect of Act.—(1) The provisions of this Act shall have effect notwithstanding anything contained in the Code or any other law, but save as expressly provided in this Act, the provisions of the Code shall, in so far as they are not inconsistent with the provisions of this Act, apply to the proceedings before a Special Court; and for the purpose of the said provisions of the Code, the Special Court shall be deemed to be a Court of Session.

(2) In particular and without prejudice to the generality of the provisions contained in sub-section (1), the provisions of section 326 and 475 of the Code shall, as far as may be, apply to the proceedings before a Special Court, and for this purpose any reference in those provisions to a Magistrate shall be construed as a reference to the Special Court.

17. Delegation.—The Central Government may, by notification, delegate, subject to such conditions as may be specified, all or any of the powers exercisable by it under this Act [except the power under sub-section (2) of section 4 and the power under sub-section (2) of section 7] to the State Government.

18. *Power to make rules.*—The Supreme Court may, by notification, make such rules, if any, as it may deem necessary for carrying out the purposes of this Act.

19. *Saving.*—(1) Nothing in this Act shall affect the jurisdiction exercisable by, or the procedure applicable to, any court or other authority under any law relating to the naval, military or air forces or any other armed forces, of the Union.

(2) For the removal of doubts, it is hereby declared that for the purposes of any such law as is referred to in sub-section (1), a Special Court shall be deemed to be a Court of ordinary criminal justice.

20. *Amendment of Act 1 of 1872.*—In the Indian Evidence Act, 1872, after section 111, the following section shall be inserted, namely:—

“111A. *Presumption as to certain offences.*—(1) Where a person is accused of having committed any offence specified in sub-section (2), in—

(a) any area declared to be a disturbed area under any enactment, for the time being in force, making provision for the suppression of disorder and restoration and maintenance of public order; or

(b) any area in which there has been, over a period of more than one month, extensive disturbance of the public peace,

and it is shown that such person had been at a place in such area at a time when firearms or explosives were used at or from that place to attack or resist the members of any armed forces or the forces charged with the maintenance of public order acting in the discharge of their duties, it shall be presumed, unless the contrary is shown, that such person had committed such offence.

(2) The offences referred to in sub-section (1) are the following, namely:—

(a) an offence under section 121, section 121A, section 122 or section 123 of the Indian Penal Code (45 of 1860);

(b) criminal conspiracy or attempt to commit, or abetment of, an offence under section 122 or section 123 of the Indian Penal Code (45 of 1860).”

21. *Repeal and saving.*—(1) The Terrorists Affected Areas (Special Courts) Ordinance, 1984 (9 of 1984), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

THE SCHEDULE

[See section 2(f)]

PART I—INDIAN PENAL CODE

1. Offences under the following provisions of the Indian Penal Code, 1960 (45 of 1860):—

(a) sections 121, 121A, 122, 123, 124 and 124A ;

(b) sections 128, 129 and 130 ;

(c) sections 131, 132, 133, 134, 135, 136, 138 and 140 ;

sections 153A and 153B ;

sections 189 and 190 ;

sections 212, 216, 216A, 224, 225 and 225B ;

sections 295 and 295A ;

sections 302, 304 and 307 ;

(d) sections 308 and 326 ;

(e) sections 332, 333, 342, 343, 344, 346, 347, 353, 363, 364, 365 and 367 ;

sections 392, 393, 394, 395, 396, 397, 398, 399 and 436 ;
sections 505, 506 and 507.

PART II—THE EXPLOSIVES ACT, 1884

2. Offences under the following provisions of the Explosives Act, 1884 (4 of 1884):—
section 9B.

PART III—THE INDIAN TELEGRAPH ACT, 1885

3. Offences under the following provisions of the Indian Telegraph Act, 1885 (13 of 1885):—
sections 20 and 25.

PART IV—THE INDIAN RAILWAYS ACT, 1890

4. Offences under the following provisions of the Indian Railways Act, 1890 (9 of 1890):—
sections 126, 126A, 127 and 128.

PART V—THE EXPLOSIVE SUBSTANCES ACT, 1908

5. Offences under the following provisions of the Explosive Substances Act, 1908 (6 of 1908):—
sections 3, 4, 5 and 6.]

PART VI—THE ARMS ACT, 1959

6. Offences under the following provisions of the Arms Act, 1959 (54 of 1959):—
sections 25 (1) excluding clause (b), 25 (1A), 25(1B) excluding clauses (d), (e), (i), 26, 27, 28 and 29.

PART VII—THE UNLAWFUL ACTIVITIES (PREVENTION) ACT, 1967

7. Offences under the following provisions of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967):—
sections 10, 11, 12 and 13.

PART VIII—THE ANTI-HIJACKING ACT, 1982

8. Offences under the following provisions of the Anti-Hijacking Act, 1982 (65 of 1982):—
sections 4 and 5.

PART IX—THE SUPPRESSION OF UNLAWFUL ACTS AGAINST SAFETY OF CIVIL AVIATION ACT, 1982

9. Offences under the following provisions of the Suppression of Unlawful Acts Against Safety of Civil Aviation Act, 1982 (66 of 1982):—
sections 3 and 4.

PART X—THE PREVENTION OF DAMAGE TO PUBLIC PROPERTY ACT, 1984

10. Offences under the following provisions of the Prevention of Damage to Public Property Act, 1984 (3 of 1984):—
sections 3 and 4.

Note 1.—An offence specified in item 1(b) of Part I of this Schedule (that is to say, an offence under section 128, 129 or 130 of the Indian Penal Code) (45 of 1860), shall be deemed to be a scheduled offence only where such offence is committed in relation to a prisoner accused, charged or convicted of a scheduled offence.

Note 2.—An offence specified in item 1(d) of Part I of this Schedule (that is to say, an offence under section 308 or section 326 of the Indian Penal Code) (45 of 1860), shall be deemed to be a scheduled offence only where such offence is committed with a firearm.

Note 3.—The offence of criminal conspiracy or attempt to commit, or abetment of, an offence specified in this Schedule shall be deemed to be a scheduled offence.

Note 4.—The commission of an offence specified in this Schedule by any member of an unlawful assembly shall be deemed to be the commission of that scheduled offence by every other member of the unlawful assembly.

Assented to on 11th September, 1984.

THE INDUSTRIAL RECONSTRUCTION BANK OF INDIA ACT, 1984

(ACT No. 62 OF 1984)

AN

ACT

to provide for the establishment of the Industrial Reconstruction Bank of India, and for the transfer to, and vesting in, the said Reconstruction Bank, of the undertaking of the Corporation known as the Industrial Reconstruction Corporation of India Limited, with a view to enabling the said Reconstruction Bank to function as the principal credit and reconstruction agency for industrial revival and to co-ordinate similar work of the other institutions engaged therein and to assist and promote industrial development, and to rehabilitate industrial concerns, and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. *Short title and commencement.*—(1) This Act may be called the Industrial Reconstruction Bank of India Act, 1984.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

- (a) “appointed day”, in relation to any provision of this Act, means the date on which such provision comes into force and any reference to the appointed day in any provision of this Act shall be construed as a reference to the commencement of that provision;
- (b) “assistance” means any direct or indirect financial, managerial or technical assistance granted by the Reconstruction Bank in pursuance of any business referred to in section 18 ;
- (c) “assisted industrial concern” means any industrial concern to which any assistance has been given by the Reconstruction Bank;
- (d) “Board” means the Board of directors of the Reconstruction Bank ;
- (e) “charge” includes a charge referred to in section 37 ;
- (f) “Corporation” means the Industrial Reconstruction Corporation of India Limited, a company formed and registered under the Companies Act, 1956 (1 of 1956), and having its registered office in the State of West Bengal ;
- (g) “Development Bank” means the Industrial Development Bank of India, established under section 3 of the Industrial Development Bank of India Act, 1964 (18 of 1964) ;
- (h) “dues” means any dues payable by any person to the Reconstruction Bank in relation to any assistance given by, or any bond or debenture to, the Reconstruction Bank, and includes interest, rent, costs, charges and commission payable in relation thereto ;
- (i) “industrial concern”—

(1) means any concern engaged, or to be engaged, in—

- (i) the manufacture, preservation or processing of goods ;
- (ii) shipping ;
- (iii) mining ;
- (iv) the hotel industry ;
- (v) the transport of passengers or goods by road or by water or by air or by ropeway or by lift ;
- (vi) the generation or distribution of electricity or any other form of power ;
- (vii) the maintenance, repair, testing or servicing of machinery of any description or vehicles or vessels or motor boats or trailers or tractors ;
- (viii) assembling, repairing or packing any article with the aid of machinery or power ;
- (ix) the development of any contiguous area of land as an industrial estate ;
- (x) fishing or providing shore facilities for fishing or maintenance thereof ;
- (xi) providing special or technical knowledge or other services for the promotion of industrial growth ; or
- (xii) the research and development of any process or product in relation to any of the matters aforesaid,

(2) and includes—

- (i) an undertaking owned, controlled or managed by a company, firm or other body corporate, which is, or is to be, so engaged,
- (ii) such other concern as the Central Government may, by notification in the Official Gazette specify in this behalf.

Explanation.—The expression “processing of goods” includes any art or process for producing, preparing or making an article by subjecting any material to a manual, mechanical, chemical, electrical or any other like operation ;

(j) “nationalised bank” means a corresponding new bank as defined in section 2 of the—

- (i) Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970) ;
- (ii) Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980) ;
- (k) “prescribed” means prescribed by rules made under this Act ;
- (l) “public financial institution” means a public financial institution specified in, or under, section 4A of the Companies Act, 1956 (1 of 1956) ;
- (m) “Reconstruction Bank” means the Industrial Reconstruction Bank of India, established under section 3 ;

- (n) "regulation" means a regulation made under this Act ;
- (o) "Reserve Bank" means the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934 (2 of 1934) ;
- (p) "share" means a share in the capital of the Corporation ;
- (q) "shareholder" means a person registered by the Corporation as the holder of a share ;
- (r) "scheduled bank" means a bank for the time being included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934) ;
- (s) "State Bank" means the State Bank of India constituted under section 3 of the State Bank of India Act, 1955 (23 of 1955) ;
- (t) "State co-operative bank" means the principal co-operative society in a State, the primary object of which is the financing of other co-operative societies in the State ;
- (u) "State Financial Corporation" means a financial corporation established under section 3 or section 3 A or an institution notified under section 46, of the State Financial Corporations Act, 1951 (43 of 1951) ;
- (v) "State level agency" means such institution or agency, operating in any State or Union territory, as may be specified as its agency by the Reconstruction Bank.

CHAPTER II

ESTABLISHMENT OF THE INDUSTRIAL RECONSTRUCTION BANK OF INDIA

3. *Establishment of the Reconstruction Bank.*—(1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be established, for the purposes of this Act, a corporation, to be known as the Industrial Reconstruction Bank of India.

(2) The Reconstruction Bank shall be a body corporate with the name aforesaid, having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property, and to contract, and may, by that name, sue and be sued.

(3) The head office of the Reconstruction Bank shall be at Calcutta, and the Reconstruction Bank may establish offices, branches or agencies at any other place, whether in, or outside, India.

4. *Authorised capital.*—(1) The authorised capital of the Reconstruction Bank shall be rupees two hundred crores.

(2) The initial paid-up capital of the Reconstruction Bank shall be rupees fifty crores which shall be obtained,—

(a) by the appropriation, out of the assets of the Corporation which stand transferred to the Reconstruction Bank by virtue of the provisions of section 5, of a sum of rupees twenty crores, being an amount equal to the amount paid-up on the shares of the Corporation ;

(b) by the conversion, to the extent of rupees twenty crores, of the loans granted by the Central Government to the Corporation, into the capital of the Reconstruction Bank ; and

(c) by the subscription, by the Central Government, to the paid-up capital of the Reconstruction Bank, of a sum of rupees ten crores.

(3) The Reconstruction Bank may increase its paid-up capital by making further issue of shares of such amount as it may think expedient, but in doing so, the Reconstruction Bank shall ensure that its total capital does not, in any case, exceed its authorised capital.

(4) The entire paid-up capital of the Reconstruction Bank shall be wholly subscribed by, and allotted to, the Central Government.

CHAPTER III

ACQUISITION AND TRANSFER OF THE UNDERTAKING OF THE INDUSTRIAL RECONSTRUCTION CORPORATION OF INDIA LIMITED

5. *Undertaking of the Corporation to be transferred to the Reconstruction Bank.*—(1) On such date as the Central Government may, by notification in the Official Gazette, appoint, the undertaking of the Corporation shall stand transferred to, and shall vest in, the Reconstruction Bank.

(2) For the transfer to, and vesting in, the Reconstruction Bank of the undertaking of the Corporation, the Corporation shall be given, in cash, by the Central Government an amount equal to the amount of the total paid-up capital of the Corporation.

(3) The undertaking of the Corporation shall be deemed to include all assets, business, rights, powers, authorities and privileges and all property, movable and immovable, cash balances, reserve funds, investments, book debts and all other rights and interests in, or arising out of, such property as were, immediately before the appointed day, in the ownership, possession, power or control of the Corporation whether within or outside India, and all books of account, registers, records, and all other documents of whatever nature relating thereto, and shall also be deemed to include all borrowings, liabilities and obligations of whatever kind then subsisting of the Corporation in relation to its undertaking.

(4) Unless otherwise expressly provided by this Act, all contracts, deeds, bonds, agreements, powers of attorney, grants of legal representation and other instruments of whatever nature subsisting or having effect immediately before the

appointed day and to which the Corporation is a party or which are in favour of the Corporation, shall be of as full force and effect against or in favour of the Reconstruction Bank, and may be enforced or acted upon as fully and effectually as if, in the place of the Corporation, the Reconstruction Bank had been a party thereto or as if they had been issued in favour of the Reconstruction Bank.

(5) If, on the appointed day, any suit, appeal or other proceeding of whatever nature in relation to the business of the undertaking which has been transferred under this section, is pending by, or against, the Corporation, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of the transfer of the undertaking of the Corporation or of anything contained in this Act and the suit, appeal or other proceeding may be continued, prosecuted and enforced by or against the Reconstruction Bank.

6. *Power of Central Government to authorise a person to take over the management of the Corporation.*—(1) The Central Government may appoint on or after the appointed day a suitable person to take over the management of the Corporation for the purpose of winding up of the Corporation, and where any person is so appointed, it shall be the duty of such person to bring the operations of the Corporation to a close, realise the amounts payable to the Corporation under sub-section (2) of section 5, and distribute the said amount to the shareholders in accordance with their rights and interests, and after such realisation and distribution, to obtain the order of the Central Government for the dissolution of the Corporation.

(2) For the purposes of sub-section (1), the person appointed under that sub-section shall have such powers and duties of the Official Liquidator under the Companies Act, 1956 as are necessary to give effect to the provisions of sub-section (1) as if the Corporation were being wound up by the Court, and, for this purpose the provisions of the Companies Act, 1956 (1 of 1956), shall apply, subject to the modification that for the word "Court", wherever it occurs, the words "Central Government" shall be substituted.

(3) When any person is appointed by the Central Government under sub-section (1), to take over the management of the Corporation,—

(a) the provisions of the Companies Act, 1956 (1 of 1956), or of any other law for the time being in force, or any instrument having effect by virtue of any Act, or other law, shall, in so far as they are inconsistent with the provisions of this Act, cease to apply to, or in relation to, the Corporation ;

(b) all persons holding office as Chairman and Managing Director and other directors, of the Corporation, immediately before the appointment of the person under sub-section (1), shall be deemed to have vacated their offices as such.

(4) Notwithstanding anything contained in this Act or in any other law for the time being in force or in any agreement or contract, any person holding, immediately before the appointed day, office as the Chairman or director of the Corporation, who vacates his office as the Chairman or director of the Corporation, who vacates his office as such on the appointed day by reason of the provisions of sub-section (3), shall not be entitled to any compensation from the Reconstruction Bank for the loss of office or for the premature termination of any agreement or contract relating to his employment, except such compensation or other benefit which the Reconstruction Bank may grant to him, having regard to what that person would have received as an officer of the Corporation if this Act had not been passed and if he had retired from his employment in the ordinary course.

7. *Transfer of the services of the officers and other employees of the Corporation to the Reconstruction Bank.*—(1) Save as otherwise provided in sub-section (3) of section 6, every officer or other employee of the Corporation shall become, on and from the appointed day, an officer or other employee, as the case may be, of the Reconstruction Bank and shall hold his office or service in that bank on the same terms and conditions and with the same rights to gratuity and other matters as would have been admissible to him, if the undertaking of the Corporation had not been transferred to, and vested in, the Reconstruction Bank, and continue to do so unless and until his employment in the Reconstruction Bank is duly terminated or until his remuneration, terms and conditions are duly altered by the Reconstruction Bank :

Provided that an officer or other employee who does not intend to continue as an employee of the Reconstruction Bank may, within ninety days from the appointed day, serve a notice of his intention to the Reconstruction Bank, and, on the expiry of the period of thirty days from the date of service of the notice, he shall cease to be an employee of the Reconstruction Bank and, on such cesser, superannuation and other benefits due to him under the terms of his employment shall be paid to him forthwith by the Reconstruction Bank as if he had retired from service.

(2) Any person who, on the appointed day, is entitled to, or is in receipt of, any superannuation or compassionate allowance or benefit from the Corporation or any provident or other fund or any authority administering such fund shall be entitled to be paid by, and to receive from, the Reconstruction Bank or any provident or other fund or any authority administering such fund, the same allowance or benefit so long as he observes the conditions on which the allowance or benefit was granted, and, if any question arises whether he has so observed such conditions, the question shall be determined by the Central Government and the decision of the Central Government thereon shall be final.

(3) Where, under the terms of any contract of service or otherwise, any person whose service becomes transferred to the Reconstruction Bank by reason of the provisions of this Act is entitled to any payment by way of gratuity or retirement benefit or compensation for any leave not availed of, or any other benefits, such person may enforce his claim against the Reconstruction Bank.

(4) Notwithstanding anything contained in sub-section (1) or sub-section (2), no application made or promotion, increment in salary, allowance or any other benefit granted to any person, before the appointed day, which would not ordinarily have been made or granted or which would not ordinarily have been admissible under the rules or authorisation of the Corporation, or of any provident or other fund in force prior to the appointed day, shall have effect or be payable or claimable from the Reconstruction Bank or from any provident or other fund or from an authority administering such fund, unless the Central Government has, by general or special order, confirmed the appointment, promotion or increment or has directed the continued grant of such allowance or other benefit, as the case may be.

(5) Notwithstanding anything contained in the Industrial Disputes Act, 1947 (14 of 1947), or in any other law for the time being in force, the transfer of the services of any officer or other employee of the Corporation to the Re-

construction Bank shall not entitled such officer or other employee to any compensation under that Act or other law, and no such claim shall be entertained by any court, tribunal or other authority.

(6) Where any person, Chairman, or other director, by whatever name called, or other employee of the Corporation has, before the appointed day, been paid a sum by way of compensation or gratuity, the Reconstruction Bank shall be entitled to claim refund of any sum so paid, if the payment is not confirmed by the Central Government by general or special order.

(7) Where one or more provident funds have been established, or maintained, by the Corporation or any other authority, for the benefit of its officers and other employees, the money debitable to the officers and other employees whose services have become transferred, by, or under this Act to the Reconstruction Bank, shall, out of the monies standing on the appointed day to the credit of such provident fund, stand transferred to, and vested in, the provident fund established by the Reconstruction Bank under section 62.

(8) Where superannuation, welfare and other funds have been established by the Corporation for the benefit of its officers or other employees whose services stand transferred to the Reconstruction Bank, the amount standing to the credit of such fund shall stand transferred, on the appointed day, to the Reconstruction Bank for distribution to the concerned officers or other employees in accordance with their rights and obligations.

8. *Dissolution of the Corporation.*—(1) As soon as realisation and distribution of the amount have been made under section 6, the person appointed under sub-section (1) of that section shall submit his duly audited accounts to the Central Government and shall apply to that Government for orders as to the dissolution of the Corporation.

(2) The Central Government shall, after hearing such person as it may think fit, and upon perusing the accounts so audited, if satisfied that the amount has been realised and distributed in accordance with the provisions of this Act, make an order that the Corporation is dissolved from the date of the order and the Corporation shall stand dissolved accordingly.

(3) A copy of the order made by the Central Government for the dissolution of the Corporation shall be filed by the Reconstruction Bank with the Registrar of Companies within thirty days from the date of such order, and the Registrar of Companies shall give effect to the said order as if it were an order made by the Court for the dissolution of the Corporation.

(4) The provisions of this section shall have effect, notwithstanding anything to the contrary contained in the Companies Act, 1956 (1 of 1956), or in any other law for the time being in force.

CHAPTER IV

MANAGEMENT OF THE RECONSTRUCTION BANK

9. *Management.*—(1) The general superintendence, direction and management of the affairs and business of the Reconstruction Bank shall vest in a Board of directors which may exercise all powers and do all acts and things which may be exercised or done by the Reconstruction Bank.

(2) Save as otherwise provided in the regulations made under this Act, the Chairman shall also have powers of general superintendence, direction and management of the affairs and business of the Reconstruction Bank and may also exercise all powers and do all acts and things which may be exercised or done by the Reconstruction Bank.

(3) Subject to the provisions of this Act, the Board, in discharging its functions, shall act on business principles with due regard to public interest.

(4) In the discharge of its functions under this Act, the Reconstruction Bank shall be guided by such directions in matters of policy involving public interest as the Central Government may give to it in writing, and if any dispute arises as to whether a question is or is not a question of such policy, the dispute shall be decided by the Central Government whose decision thereon shall be final.

10. *Board of Directors.*—(1) The Board shall consist of the following, namely:—

- (a) a Chairman, to be appointed by the Central Government, who shall function both as the Chairman and as the Managing Director ;
- (b) a Deputy Governor of the Reserve Bank, to be nominated by that Bank ;
- (c) a director, to be nominated by the Development Bank ;
- (d) not more than fifteen directors to be nominated by the Central Government, of whom—
 - (i) three shall be officials of the Central Government,
 - (ii) not more than three shall be from the public financial institutions,
 - (iii) not more than five shall be from the State Bank, nationalised banks and the State Financial Corporations,
 - (iv) not more than four shall be from among persons who have, in the opinion of the Central Government, special knowledge of, and professional experience in, science, technology, economics, industry, industrial co-operatives, law, industrial finance, investment, accountancy, marketing or any other matter, the special knowledge of, or professional experience in, which would, in the opinion of the Central Government, be useful to the Reconstruction Bank.

(2) A director nominated under sub-section (1) shall hold office during the pleasure of the authority nominating him.

11. *Disqualifications of membership of the Board.*—No person shall be qualified to be a member of the Board if—

(a) he has been removed or dismissed from service of—

(i) Government, or

(ii) Reserve Bank, State Bank or any other bank, or

(iii) any public financial institution or State financial corporation, or

(iv) any other corporation owned or controlled by Government,

on a charge of corruption or bribery ; or

(b) he is, or at any time has been, adjudicated an insolvent or has suspended payment of his debts or has compounded with his creditors ; or

(c) he is a lunatic and stands so declared by a competent court ; or

(d) he is or has been convicted of any offence, which, in the opinion of the Central Government, involves moral turpitude.

12. *Term of office, salaries and allowances of Chairman.*—(1) The Chairman shall hold office for such term not exceeding five years as the Central Government may specify in this behalf and any person so appointed shall be eligible for re-appointment for a like term.

(2) Notwithstanding anything contained in sub-section (1),—

(a) the Central Government shall have the right to terminate the term of office of the Chairman at any time before the expiry of the term specified under sub-section (1) by giving him notice of not less than three months in writing or three month's salary and allowances in lieu of such notice ; and the Chairman shall also have the right to relinquish his office at any time before the expiry of the term specified under sub-section (1) by giving, to the Central Government, notice of not less than three months in writing ;

(b) the Central Government may, at any time, remove the Chairman from office ;

Provided that no person shall be removed from his office under this clause, unless he has been given a reasonable opportunity of showing cause against his removal.

(3) Where any vacancy occurs in the office of the Chairman, the Central Government shall appoint a suitable person to discharge the functions of the Chairman.

(4) When the Chairman is unable to discharge his functions owing to absence, illness or any other cause, the Central Government may appoint a suitable person to function as the Chairman until the day on which the Chairman resumes the charge of his functions.

(5) The Chairman shall be a whole-time officer of the Reconstruction Bank and shall receive such salaries, allowances and other benefits, and shall be subject to such other terms and conditions, as may be determined by the Central Government :

Provided that the Board may, if it is of opinion, that it is necessary in the public interest so to do, permit the Chairman to undertake, at the request of the Central Government or the Reserve Bank, such part-time honorary work as is not likely to interfere with his duties as Chairman.

13. *Disclosure of interest.*—No member of the Board shall have an interest, direct or indirect, in any business, industry or concern to which any assistance has been given or is to be given by the Reconstruction Bank under this Act and if any such member acquires such interest at any time during the continuance of such assistance, he shall immediately disclose it to the Board and shall either, resign his membership of the Board or dispose of his interest in such manner and within such time as the Board may direct.

14. *Meetings of the Board.*—(1) The Board shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be provided for in the regulations.

(2) If, for any reason the Chairman is unable to attend any meeting of the Board, any other director nominated by the Chairman in this behalf and in the absence of such nomination, any director elected by the directors present, from amongst themselves, shall preside at the meeting.

(3) All questions which come up before any meeting of the Board shall be decided by a majority of votes of the directors present and voting, and in the event of an equality of votes, the Chairman, or, in his absence, the person, presiding, shall have a second or casting vote.

(4) Save as otherwise provided under sub-section (3), every director of the Board shall have one vote.

15. *Executive Committee and other committees.*—(1) The Board may constitute an Executive Committee consisting of such number of directors as may be provided for in the regulations.

(2) The Executive Committee shall discharge such functions as may be provided for in the regulations, or, as may be delegated to it, by the Board.

(3) The Board may constitute such other committees, whether consisting only of directors or only of other persons or partly of directors and partly of other persons, for such purpose or purposes, as it may think fit.

(4) The Executive Committee or any other committee constituted under this section shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business as, its meetings as may be provided for in the regulations.

16. Existence of vacancy in, or defect in the constitution of, the Board or defect or disqualification of a member not to invalidate the proceedings of the Board.— (1) No act or proceeding of the Board or of any Executive or other committee constituted by it shall be invalid merely on the ground of the existence of any vacancy in, or any defect in the constitution of, such Board, or committee, as the case may be.

(2) All acts done by a person acting in good faith as a member of the Board or of any committee constituted by it shall be valid, notwithstanding that it may afterwards be discovered that his appointment was invalid by reason of any defect or disqualification or had terminated by virtue of any provision of this Act or any other law for the time being in force :

Provided that nothing in this section shall be deemed to give validity to any act of a member of the Board or of any committee after his appointment has been shown to the Reconstruction Bank to be invalid or to have terminated.

17. Fees and allowances of directors and members of committees.—The directors and members of the committee shall be paid such fees and allowances as may be provided for in the regulations for attending the meetings of the Board or of any committee constituted in pursuance of this Act or for attending to any other work of the Reconstruction Bank :

Provided that no fees shall be payable to the Chairman or to any other director or member who is an official of the Government, or, to a Deputy Governor of the Reserve Bank or to any official of the Development Bank or Reconstruction Bank.

CHAPTER V

OBJECTS OF, AND BUSINESS TO BE TRANSACTED BY, THE RECONSTRUCTION BANK

18. Objects and business of the Reconstruction Bank.—(1) The Reconstruction Bank, shall function as the principal credit and reconstruction agency for industrial revival by undertaking modernisation, expansion, re-organisation, diversification or rationalisation of industries, and by co-ordinating similar work of other institutions engaged herein, and shall assist and promote industrial development, reconstruction and revival, and undertake rehabilitation of industrial concerns, by providing or procuring assistance and operating schemes for the same, and may, for attaining the said objects, carry on and transact all or any of the following businesses, namely:—

- (a) granting loans and advances (including working capital) to any industrial concern or subscribing to or purchasing or under-writing the issue of stocks, shares, bonds or debentures of any industrial concern or converting the dues in respect of such loans or debentures into the shares of any industrial concern ;
- (b) guaranteeing, counter-guaranteeing or providing indemnity, as the case may be, in respect of—
 - (i) loans raised by an industrial concern from any scheduled bank or State co-operative bank or any public financial institution or any other prescribed institution or agency in, or outside, India ;
 - (ii) deferred payments due from an industrial concern ;
 - (iii) the performance obligations of any contract under taken by an industrial concern, including repayment of any advance obtained by such industrial concern in connection with such contract ;
- (c) subscribing to or purchasing or underwriting the issue of stocks, shares, bonds or debentures of any institution which may be notified by the Central Government in this behalf ;
- (d) providing credit to any State level agency or other prescribed institution or agency for grant of loans and advances to industrial concerns ;
- (e) providing or obtaining credit from other public financial institutions, scheduled banks and State co-operative banks, for grant of loans and advances to or to furnish guarantees on behalf of the industrial concern ;
- (f) providing infra-structural facilities and raw materials ;
- (g) providing machinery and other equipment on lease or hire-purchase basis ;
- (h) providing consultancy and merchant banking services in and outside India relating to reconstruction and development of any industrial concern or industry in general ;
- (i) accepting or discounting of bills of exchange and promissory notes, made, drawn, accepted or endorsed by any industrial concern or by any person selling capital goods manufactured by one industrial concern to another industrial concern ;
- (j) promoting, owning, taking over, managing industrial concerns and acting as authorised person, where so appointed by the Central Government, to manage an industrial concern, including ancillaries ;
- (k) transferring or acquiring for consideration any instrument relating to loans and advances ;
- (l) providing technical, legal, administrative and marketing assistance, promoting, assisting and financing mergers, amalgamation or reconstruction of an industrial or business concern ;
- (m) providing managerial assistance to industrial concerns including nationalised undertakings by deputing officers from its own cadre or a separate management pool constituted for the purpose ;

(n) undertaking research and surveys for evaluating or dealing with marketing or investments, carrying on technoeconomic studies in connection with reconstruction and development of industry and establishment of institutes for such purposes including training of personnel ;

(o) granting, opening, issuing, confirming or endorsing letters of credit and negotiating or collecting bills and other documents drawn thereunder ;

(p) forming, or controlling, of subsidiaries for carrying out any of its functions or to carry on such other activities conducive to its business ;

(q) acting as an agent of—

(i) Central Government or State Government ;

(ii) Reserve Bank, State Bank, scheduled bank, State co-operative bank, public financial institutions, State Financial Corporations ;

(iii) such other Government or person as the Central Government may authorise ;

and to appoint one or more of those institutions, or agencies, or any other prescribed person, as its agent ;

(r) performing functions entrusted to or required of it by Central Government under this Act or any other law ;

(s) doing any kind of business or assignment in or outside the country which the Central Government may authorise ;

(t) collecting information from all concerned agencies relating to industrial sickness and industrial development ;

(u) preparing guidelines to assist the Central Government in formulating policy frame work to reconstruct, revive or rehabilitate industrial concerns or any industry ;

(v) granting loans for housing and other purposes to the officers and other employees (including persons employed on contract) of the Reconstruction Bank ;

(w) generally doing such other acts and things as may be incidental to or consequential upon the exercise of its powers or of its duties under this Act or any other law, including sale or transfer of any of its assets.

(2) The Reconstruction Bank may receive in consideration of any of the services mentioned in sub-section (1), such commission, brokerage, interest, rent, remuneration or fees, as may be agreed upon.

(3) The Reconstruction Bank shall not grant any loan or advance or other assistance on the security of its own bonds or debentures.

19. *Prohibited business.*—(1) The Reconstruction Bank shall not enter into any kind of business with any industrial concern, of which any of the directors of the Reconstruction Bank is a proprietor, partner, director, manager, agent employee or guarantor, or in which one or more directors of the Reconstruction Bank together hold substantial interest :

Provided that this sub-section shall not apply to any industrial concern if any director of the Reconstruction Bank—

(i) is nominated as a director of the Board of such concern by Government, or a Government company, or by the Reconstruction Bank or by a corporation established by any other law, or

(ii) is elected as a director on the Board of such industrial concern by virtue of shares held in that industrial concern by Government, or a Government company, or by the Reconstruction Bank or by a corporation established by any other law.

by reason only of such nomination or election, as the case may be,

Explanation I.—“Government company” has the meaning assigned to it in section 617 of the Companies Act, 1956 (1 of 1956).

Explanation II.—“Substantial interest”, in relation to any industrial concern, means the beneficial interest held by one or more of the directors of the Reconstruction Bank or by any relative [as defined in clause (41) of section 2 of the Companies Act, 1956] (1 of 1956) such director whether singly or taken together, in the shares of the industrial concern, the aggregate amount paid-up on which either exceeds five lakhs of rupees or five per cent of capital of the industrial concern, whichever is the lesser.

(2) The provisions of sub-section (1)—

(i) shall not apply to any industrial concern as specified therein if the Reconstruction Bank is satisfied that it is necessary in the public interest to enter into business with that concern, and entering into any kind of business with such industrial concern shall be in accordance with and subject to such conditions and limitations as may be provided for in the regulations ;

(ii) shall apply only so long as the conditions precedent to such disability as set out in the said sub-section continue.

20. *Loans by Central Government.*—The Central Government may, after due appropriation made by Parliament by law in this behalf, advance to the Reconstruction Bank interest free loans or loans with interest on such terms and conditions, as may be agreed upon.

21. *Borrowing and acceptance of deposits by the Reconstruction Bank*—(1) The Reconstruction Bank may, for the purpose of carrying out its functions under this Act—

(a) issue and sell bonds and debentures with or without guarantee of the Central Government;

(b) borrow money from the Reserve Bank—

(i) repayable on demand or on the expiry of fixed periods, not exceeding ninety days from the date on which the money is so borrowed against the security of stocks, funds and securities (other than immovable property) in which a trustee is authorised to invest trust money by any law for the time being in force in India;

(ii) against bills of exchange or promissory notes arising out of *bona fide* commercial or trade transactions, bearing two or more good signatures and maturing within five years from the date of borrowing;

(iii) for any other purpose approved by the Central Government in accordance with the provisions of the Reserve Bank of India Act, 1934 (2 of 1934);

(c) borrow money from such other authority, organisation, institution or trust in India as may be generally or specially approved by the Central Government;

(d) accept deposits repayable after the expiry of a period which shall not be less than twelve months from the date of making of the deposit on such terms as may be generally or specially approved by the Reserve Bank.

(2) The Central Government may, on a request being made to it by the Reconstruction Bank, guarantee the bonds and debentures issued by that bank as to the repayment of principal and the payment of interest at such rate as may be fixed by that Government.

(3) Notwithstanding anything contained in any other law for the time being in force, the bonds and debentures issued or sold by the Reconstruction Bank shall be approved securities for the purposes of the Indian Trusts Act, 1882, (2 of 1882), the Insurance Act, 1938 (4 of 1938), and the Banking Regulation Act, 1949 (10 of 1949).

22. *Power to transfer rights*.—The rights and interests of the Reconstruction Bank (including any other rights incidental thereto) in relation to any loan or advance granted, or any amount recoverable, by it may be transferred by the Reconstruction Bank, either in whole or in part, by the execution or issue of any instrument, or by the transfer of any instrument by endorsement or in any other manner in which the rights and interests in relation to such loan or advance may be lawfully transferred, and the Reconstruction Bank may, notwithstanding such transfer, act as the trustee of the transferee.

23. *Loans in foreign currency*.—(1) Notwithstanding anything contained in the Foreign Exchange Regulation Act, 1973 (46 of 1973), or in any other enactment for the time being in force relating to foreign exchange, the Reconstruction Bank may, for the purpose of granting loans and advances under this Act, borrow, with the previous consent of the Central Government, foreign currency from any bank or financial institution in any foreign country or as otherwise prescribed.

(2) The Central Government may, where necessary guarantee any loan taken by the Reconstruction Bank under sub-section (1), or any part thereof, as to the repayment of principal and payment of interest and other incidental charges.

(3) All loans and advances granted by the Reconstruction Bank out of foreign currency borrowed under sub-section (1) shall be expressed in terms of foreign currency as equivalent of Indian currency, calculated in accordance with the rate of exchange prevailing in India at the time of grant thereof, and the amount due thereunder shall be repayable in equivalent Indian currency, calculated in accordance with the rate of exchange prevailing in India at the time of repayment of such loan or advance.

(4) Any loss or profit in connection with any borrowing of foreign currency under sub-section (1), for the purpose of granting loans and advances under this Act, or with its repayment to the concerned foreign lending agency, on account of any fluctuations in the rate of exchange accruing:—

(a) during the period within which the loan or advance is repayable by the industrial concern or the period of actual repayment thereof by the concern, whichever is longer, shall be reimbursed by, or as the case paid to, may be, the recipients of such loans and advances;

(b) after the expiry of the period specified in clause (a).—

(i) shall be borne by the Reconstruction Bank in respect of normal market fluctuations in foreign exchange;

(ii) shall be reimbursed by, or paid to, as the case may be, the Central Government in respect of fluctuations other than the normal market fluctuations in foreign exchange.

Explanation.—If any question arises as to whether any fluctuation as aforesaid is a normal fluctuation or not, the same shall be decided by the Central Government whose decision thereon shall be final.

24. *Grants, donations, etc., to the Reconstruction Bank*.—The Reconstruction Bank may receive gifts, grants, donations or benefactions from Government or any other source.

CHAPTER VI

RECONSTRUCTION ASSISTANCE FUND

25. *Reconstruction Assistance Fund*.—With effect from the appointed day, the Reconstruction Bank shall establish a special fund to be called the Reconstruction Assistance Fund.

26. *Credits to the Reconstruction Assistance Fund.*—To the Reconstruction Assistance Fund shall be credited—

- (a) all amounts received for the purposes of that Fund by way of loans, gifts, grants, donations or benefactions from Government or any other source ;
- (b) repayments or recoveries in respect of loans, advances or other facilities granted from the Fund ;
- (c) income or profits from investments made from the Fund ; and
- (d) income accruing or arising to the Fund by way of interest or otherwise, on account of the application of the Fund in accordance with the provisions of section 27.

27. *Utilisation of Reconstruction Assistance Fund.*—(1) Where the Reconstruction Bank considers it necessary or desirable so to do, it may, subject to the provisions of sub-sections (3) and (4), disburse or spend from the Reconstruction Assistance Fund any amount on account, or in consequence, of the grant of any loan or advance or on account, or in consequence, of entering into any arrangement, under section 18 :

Provided that before granting any such loan or advance to an industrial concern or entering into any such arrangement with or in relation to an industrial concern, the Reconstruction Bank shall obtain the prior approval of the Central Government.

(2) Where the Reconstruction Bank considers it necessary or desirable so to do, it may, subject to the provisions of sub-sections (3) and (4), disburse or spend from the Reconstruction Assistance Fund any amount for one or more of the purposes specified in section 18.

(3) Before seeking the approval of the Central Government under sub-section (1), the Reconstruction Bank shall satisfy itself that the banking or other financial institutions or other agencies are not likely to grant such loan or advance to the industrial concern or to enter into any such arrangement with or in relation to the industrial concern in the ordinary course of business.

(4) The Central Government shall, before giving its approval, satisfy itself that such loan, advance or arrangement is necessary as a matter of priority in the interests of industrial reconstruction, revival, rehabilitation or development.

(5) For the removal of doubts, it is hereby declared that nothing contained in this section shall be deemed to preclude the Reconstruction Bank from granting any loan or advance or from entering into any arrangement under clause (a) or under clause (b) of sub-section (1) of section 18, without the approval of the Central Government, if no amount in respect thereof is to be disbursed or spent from the Reconstruction Assistance Fund.

28. *Debits to Reconstruction Assistance Fund.*—(1) To the Reconstruction Assistance Fund shall be debited—

- (a) such amounts as may from time to time be disbursed or spent under section 27 ;
- (b) such amounts as may be required for discharging the liabilities in respect of loans received for the purposes of that Fund ;
- (c) any loss arising on account of investment made out of that Fund ; and
- (d) such expenditure arising out of, or in connection with, the administration and application of the Fund as may be determined by the Board.

(2) No amount shall be debited to the Reconstruction Assistance Fund except as provided for in sub-section (1).

29. *Accounts and audit of Reconstruction Assistance Fund.*—(1) The balance-sheet and accounts of the Reconstruction Assistance Fund shall be prepared in such form and manner as may be provided for in the regulations.

(2) The Board shall cause the books and accounts of the Fund to be closed and balanced as on the 30th day of June each year.

(3) The Reconstruction Assistance Fund shall be audited by one or more auditors appointed by the Central Government under section 34, who shall make a separate report thereon.

(4) The provisions of sub-sections (2), (3), (4) and (6) of section 34 shall, so far as may be, apply in relation to the audit of the Reconstruction Assistance Fund, as they apply to the audit of the accounts of the Reconstruction Bank.

(5) The Reconstruction Bank shall furnish to the Central Government, within four months from the date on which the accounts of the Fund are closed and balanced, a copy of the balance-sheet and accounts together with a copy of the auditors' report and a copy of the report on the operation of the Fund during the relevant year and the Central Government shall, as soon as may be after they are received by it, cause the same to be laid before each House of Parliament.

30. *Liquidation of Reconstruction Assistance Fund.*—The Reconstruction Assistance Fund shall not be closed or wound up save by the order of the Central Government and in such manner as that Government may direct.

CHAPTER VII

GENERAL FUND, ACCOUNTS AND AUDIT

31. *General Fund.*—All receipts of the Reconstruction other than those which are to be credited to the Reconstruction Assistance Fund under this Act shall be credited to a Bank Fund to be called the General Fund and all payments by the Reconstruction Bank, other than those which are to be debited to the Reconstruction Assistance Fund, shall be made out of the General Fund.

32. *Preparation of accounts and balance sheet.*—(1) The balance-sheet and accounts of the Reconstruction Bank shall be prepared in such form and manner as may be provided for in the regulations.

(2) The Board shall cause the books and accounts of the Reconstruction Bank to be closed and balanced as on the 30th day of June each year.

33. *Disposal of profits accruing to General Fund.*—(1) The Reconstruction Bank may establish a reserve fund to which may be transferred such sums as that Bank may deem fit out of the annual profits accruing to the General Fund.

(2) After making provision for bad and doubtful debts, depreciation of assets and or all other matters for provision is necessary or expedient or which is usually provided for by bankers and for the reserve fund referred to in sub-section (1), the Reconstruction Bank shall transfer the balance of the net profits to the Central Government.

34. *Audit.*—(1) The accounts of the Reconstruction Bank, shall be audited by auditors duly qualified to act as auditors under sub-section (1) of section 226 of the Companies Act, 1956 (1 of 1956) who shall be appointed by the Central Government for such term and on such remuneration as the Central Government may fix.

(2) The auditors shall be supplied with a copy of the annual balance-sheet of the Reconstruction Bank and it shall be their duty to examine it together with the accounts and vouchers relating thereto and they shall have a list delivered to them of all books kept by the Reconstruction Bank and shall at all reasonable times have access to the books, accounts, vouchers and other documents of the Reconstruction Bank.

(3) The auditors may, in relation to such accounts, examine any director or any officer or other employee of the Reconstruction Bank and shall be entitled to require from the Board or officers or other employees of the Reconstruction Bank such information and explanation as they may think necessary for the performance of their duties.

(4) The auditors shall make a report to the Reconstruction Bank upon the annual balance-sheet and accounts examined by them and in every such report shall state whether in their opinion the balance-sheet is a full and fair balance-sheet containing all necessary particulars and properly drawn up so as to exhibit a true and fair view of the state of affairs of the Reconstruction Bank and in case they had called for any explanation or information from the Board or any officer or other employee of the Reconstruction Bank whether it has been given and whether it is satisfactory.

(5) The Reconstruction Bank shall furnish to the Central Government within four months from the date on which its accounts are closed and balanced, a copy of its balance-sheet and accounts together with a copy of the auditors report and a report of the working of the Reconstruction Bank during the relevant year, and the Central Government, as soon as may be after they are received by it, cause the same to be laid before each House of Parliament.

(6) Without prejudice to anything contained in the preceding sub-sections, the Central Government may at any time appoint the Comptroller and Auditor General of India to examine and report upon the accounts of the Reconstruction Bank and any expenditure incurred by him in connection with such examination and report shall be payable by the Reconstruction Bank to the Comptroller and Auditor General of India.

35. *Saving.*—Save as otherwise provided in sub-section (4) of section 29, nothing contained in this Chapter shall apply to the Reconstruction Assistance Fund.

CHAPTER VIII

SPECIAL POWERS OF THE RECONSTRUCTION BANK

36. *Power to impose conditions for assistance.*—(1) In entering into any arrangement under section 18 with an industrial concern, the Reconstruction Bank may impose such conditions as it may think necessary or expedient for protecting the interests of the Reconstruction Bank, and securing that the assistance granted by it is put to the best use by the industrial concern.

(2) Where any arrangement entered into by the Reconstruction Bank with an industrial concern provides for the appointment by the Reconstruction Bank of one or more directors of such industrial concern, such provision and any appointment of directors made in pursuance thereof shall be valid and effective notwithstanding anything to the contrary contained in the Companies Act, 1956 (1 of 1956), or in any other law for the time being in force or in the memorandum, articles of association or any other instrument relating to the industrial concern, and any provision regarding share qualification, age limit, number of directorships, removal from office of directors and such like conditions contained in any such law or instrument aforesaid, shall not apply to any director appointed by the Reconstruction Bank in pursuance of the arrangement as aforesaid.

(3) Any director appointed in pursuance of sub-section (2) shall—

- (a) hold office during the pleasure of the Reconstruction Bank and may be removed or substituted by any person by order in writing by the Reconstruction Bank ;
- (b) not incur any obligation or liability by reason only of his being a director or for anything done or omitted to be done in good faith in the discharge of his duties as a director or anything in relation thereto ;
- (c) not be liable to retirement by rotation and shall not be taken into account for computing the number of directors liable to such retirement.

37. *Assistance to industrial concern when to operate as a charge on the property offered as security.*—(1) Where any person or industrial concern seeks any assistance from the Reconstruction Bank on the security of any immovable property belonging to him or to the industrial concern or on the security of the property of some other person whose property is offered as a collateral security for such assistance, such person or industrial concern or, as the case may be, such other person may execute a written declaration in the form specified in the First Schedule stating therein the particulars of the immovable property which is proposed to be offered as security or as the case may be, collateral security, for such assistance and agreeing that the dues relating to the assistance, if granted, shall be a charge on such property, and, if, on receipt of such declaration, the Reconstruction Bank grants any assistance to the person or the industrial concern aforesaid, the dues relating to such assistance shall, without prejudice to the rights of any other creditor holding any prior charge or mortgage in respect of the property so specified, be, by virtue of the provisions of this section, a charge on the property specified in the declaration aforesaid.

(2) Where any further immovable property is offered as security for the assistance referred to in sub-section (1), a fresh declaration shall be executed, as far as may be, in the form specified in the First Schedule.

(3) Every declaration referred to in sub-section (1) or sub-section (2) shall be deemed to be a document registrable as an agreement under the provisions of the Registration Act, 1908 (16 of 1908), and no such declaration shall have effect unless it is so registered.

38. Power to call for repayment before agreed period.—Notwithstanding anything contained in any agreement to the contrary, the Reconstruction Bank may, by notice in writing, require any industrial concern to which it has granted any assistance to discharge forthwith in full its entire dues and also discharge its other liabilities to the Reconstruction Bank—

- (a) if it appears to the Board that false or misleading information in any material particular was given in the application for the assistance ; or
- (b) if the industrial concern has failed to comply with the terms of its agreement with the Reconstruction Bank in the matter of assistance ; or
- (c) if there is a reasonable apprehension that the industrial concern is unable to pay its debts or that proceedings for liquidation has been, or may be, commenced in respect thereof ; or
- (d) if the property assigned, charged, hypothecated, mortgaged or pledged to the Reconstruction Bank as a security for assistance is not insured and kept insured by the industrial concern to the satisfaction of the Reconstruction Bank or if such property depreciates in value to such an extent that, in the opinion of the Board, further security to the satisfaction of the Board should be given and such security is not given ; or
- (e) if, without the permission of the Board, any machinery, plant or other equipment, whether forming part of the security or otherwise, is removed from the premises of the undertaking or the industrial concern, as the case may be, without being replaced ; or
- (f) if for any other reason, it is necessary so to do to protect the interests of the Reconstruction Bank.

39. Rights of Reconstruction Bank in case of default.—(1) Where an assisted industrial concern, which is under a liability to the Reconstruction Bank under any agreement with the Bank, makes any default in the payment of any dues, or in meeting its obligation in relation to any other assistance given by the Reconstruction Bank or otherwise fails to comply with the terms of the agreement with that Bank, the Reconstruction Bank shall have the right to take over the management, or possession, or both, of the industrial concern, as well as the right to transfer by way of lease or sale of the property assigned, charged, hypothecated, mortgaged or pledged to the Reconstruction Bank for the purpose of realising its dues or for the revival of the industrial concern.

(2) Any transfer of property made by the Reconstruction Bank in exercise of the powers conferred on it by sub-section (1) shall vest in the transferee the rights in, or in relation to, the property transferred as if the transfer had been made by the owner of such property.

(3) The Reconstruction Bank shall have the same rights and powers with respect to goods manufactured or produced wholly or partly from goods forming part of the security held by it, as it had with respect to the original goods.

(4) Where any action has been taken against an industrial concern under the provisions of sub-section (1), all costs, charges and expenses which, in the opinion of the Reconstruction Bank, have been properly incurred by it as incidental thereto, shall be recoverable from the industrial concern and the money which is received by the Reconstruction Bank shall, in the absence of any contract to the contrary, be held by it in trust, to be applied, firstly, in payment of such costs, charges and expenses, and, secondly, in discharge of the dues of the Reconstruction Bank and the residue of the money so received shall be paid to the person entitled thereto in accordance with his rights and interests.

(5) Where the Reconstruction Bank takes over the management or possession of any industrial concern under sub-section (1), such industrial concern may sue, and be sued, in its name.

40. Enforcement of claims by the Reconstruction Bank.—(1) (a) Where an assisted industrial concern makes any default in the payment of any dues to, or in meeting its obligation in relation to any other assistance given by the Reconstruction Bank or otherwise fails to comply with the terms of agreement with that Bank, or

(b) where the Reconstruction Bank makes an order under section 38 requiring the assisted industrial concern to make immediate repayment of any assistance granted to it and the industrial concern fails to make such repayment,

them, without prejudice to the provisions of section 39 of this Act and of section 69 of the Transfer of Property Act, 1882 (4 of 1882), any officer of the Reconstruction Bank generally or specially authorised by the Board in this behalf, may apply to the concerned High Court for one or more of the following reliefs, namely:—

- (i) for an order for the sale or lease of the property assigned, charged, hypothecated, mortgaged or pledged to the Reconstruction Bank as security for the assistance granted to it, or for the sale or lease of any other property, of the industrial concern ; or
- (ii) for transferring the management of the industrial concern to the Reconstruction Bank or to its nominee ; or
- (iii) for an *ad interim* injunction restraining the industrial concern from transferring or removing its machinery, plant or equipment from the premises of the industrial concern without the previous permission of the Board, where such transfer or removal is apprehended ; or
- (iv) for an order for the appointment of a receiver where there is apprehension of the machinery, equipment or any other property of substantial value which has been assigned, charged, hypothecated, mortgaged or pledged to the Reconstruction Bank, being removed from the premises of the industrial concern or of being transferred without the previous permission of the Reconstruction Bank.

(2) An application under sub-section (1) shall state the nature and extent of the liability of the industrial concern to the Reconstruction Bank, the ground on which it is made and such other particulars as may be necessary for obtaining the relief prayed for.

(3) Where an application is for any relief mentioned in sub-clause (i) of sub-section (1), the High Court may,—

- (a) by an order, authorise the Reconstruction Bank to grant lease of such property to such person and on such terms and conditions as may be specified in the said order : or

- (b) pass an order calling upon the person whose property has been assigned, charged, hypothecated, mortgaged or pledged to the Reconstruction Bank to show cause, on a date to be specified in the notice as to why an order for the sale of such property or so much of such property, as would, on being sold, realise, in its estimation, an amount equivalent in value to the outstanding dues of the industrial concern to the reconstruction Bank, together with costs of the proceedings taken under this section, shall not be made, or
- (c) pass an *ad interim* order attaching any property of the industrial concern which has not been assigned, charged, hypothecated, mortgaged or pledged to the Reconstruction Bank, or so much of such property, as would, on being sold, realise, in its estimation, an amount equivalent in value to the outstanding dues of the industrial concern to the Reconstruction Bank, together with costs of the proceedings taken under this section, and pass an order calling upon the industrial concern to show cause on a date to be specified in the notice as to why such order of *ad interim* attachment shall not be made absolute.
- (4) Where an application is for the relief mentioned in sub-clause (ii) of sub-section (1), the High Court shall issue a notice calling upon the industrial concern to show cause, on a date to be specified in the notice, as to why the management of the industrial concern shall not be transferred to the Reconstruction Bank or to its nominee.
- (5) Where an application is for the relief mentioned in sub-clause (iii) of sub-section (1), the High Court shall grant an *ad interim* injunction restraining the industrial concern from transferring or removing its machinery or other equipment and issue a notice, calling upon the industrial concern to show cause, on a date to be specified in the notice as to why such *ad interim* injunction shall not be made absolute.
- (6) Where an application is for the relief mentioned in sub-clause (iv) of sub-section (1), the High Court shall pass an *ad interim* order appointing a receiver in respect of the property assigned, charged, hypothecated, mortgaged or pledged and shall issue a notice calling upon the industrial concern to show cause, on a date to be specified in the notice, as to why the *ad interim* order appointing the receiver shall not be made absolute.
- (7) If no cause is shown, on or before the date specified in the notice issued by the High Court, the Court shall forthwith—
- (a) make an order for the sale of the property which has been assigned, charged, hypothecated, mortgaged or pledged to the Reconstruction Bank or so much of such property, as would, on being sold, realise, in its estimation, an amount equivalent in value to the outstanding dues of the industrial concern to the Reconstruction Bank, together with costs of the proceedings taken under this section ;
- (b) direct the sale of the attached property or the transfer of the management of the industrial concern to the Reconstruction Bank or to its nominee ;
- and shall apply the proceeds of such sale for the discharge of the dues to the Reconstruction Bank and the residue of such proceeds, if any, shall be made over to the person entitled thereto in accordance with his rights and interests ;
- (c) make the *ad interim* injunction made under sub-section (5), and the *ad interim* order of appointment of the receiver made under sub-section (6), as the case may be, absolute.
- (8) If cause is shown, the High Court shall proceed to investigate the claim of the Reconstruction Bank and the provisions of the Code of Civil Procedure, 1908 (5 of 1908), shall, as far as practicable, apply to such proceeding.
- (9) On an investigation made under sub-section (8), the High Court may pass an order,—
- (a) for the sale of the property which has been assigned, charged, hypothecated, mortgaged or pledged to the Reconstruction Bank or so much of such property, as would, on being sold, realise, in its estimation, an amount equivalent in value to the outstanding dues of the assisted industrial concern to the Reconstruction Bank, together with costs of the proceedings taken under this section ; or
- (b) confirming the order of attachment and directing the sale of the attached property, or the transfer of the management of the assisted industrial concern to the Reconstruction Bank or to its nominee ; or
- (c) varying the order of attachment so as to release a portion of the property from attachment and directing the sale of the remainder of the attached property ;
- and shall apply the proceeds of such sale for the discharge of the dues to the Reconstruction Bank and the residue of such proceeds, if any, shall be made over to the person entitled thereto, in accordance with his rights and interests ;
- (d) releasing the property from attachment, if it is satisfied, that it is not necessary in the interests of the Reconstruction Bank ; or
- (e) confirming or vacating the injunction or the order for the appointment of the receiver ;

Provided that when making any order under clause (d), the High Court may make such further orders as it thinks necessary to protect the interest of the Reconstruction Bank, and may apportion the costs of the proceedings in such manner as it thinks fit :

Provided further that unless the Reconstruction Bank intimates to the High Court that it will not prefer an appeal against any order releasing any property from any attachment, such order shall not be given effect to until the expiry of the period fixed under sub-section (12) within which an appeal may be preferred, or if an appeal is preferred, unless the court empowered to hear appeals from the decisions of the said High Court otherwise directs, until the appeal is disposed of.

(10) An order of attachment or sale of property under this section shall be carried into effect as far as practicable in the manner provided in the Code of Civil Procedure, 1908 (5 of 1908), for the attachment or sale of property in the execution of a decree as if the Reconstruction Bank were the decree-holder.

(11) An order under this section transferring the management of any industrial concern to the Reconstruction Bank or to its nominee shall be carried into effect, as far as may be practicable, in the manner provided in the Code of Civil Procedure, 1908 (5 of 1908) for the possession of immovable property or the delivery of movable property in the execution of a decree, as if the Reconstruction Bank or its nominee were the decree-holder.

(12) Any party aggrieved by an order under sub-section (3), sub-section (7) or sub-section (9) may, within thirty days from the date of the order, prefer an appeal to the court empowered to hear appeals from the decisions of the High Court which passed the order and the appellate court may, after hearing the parties, pass such orders as it thinks proper.

(13) Nothing in this section shall be construed, where proceedings for liquidation in respect of an industrial concern have commenced before an application is made under sub-section (1), as giving to the Reconstruction Bank any preference over the other creditors of the industrial concern not conferred on it by any other law.

41. Power of Reconstruction Bank relating to property offered as primary or collateral security.—(1) Where a person has offered any property as security, whether primary or collateral, for any assistance given by the Reconstruction Bank to any industrial concern, or to such person, and a default has been committed by the industrial concern or by such person in the payment of any dues of the Reconstruction Bank or in meeting any obligation in relation to the assistance given by the Reconstruction Bank to the industrial concern aforesaid, the Reconstruction Bank shall have the right to take over the management, or possession, or both, of the property so offered as security, and shall have the right to transfer by lease or sale the property aforesaid for the purpose of realising its dues.

(2) Any transfer of property made by the Reconstruction Bank, in exercise of the powers conferred on it by sub-section (1), shall vest in the transferee, the rights in or in relation to the property transferred as if the transfer had been made by the owner of such property.

(3) Where any action has been taken under the provisions of sub-section (1), costs, charges and expenses which, in the opinion of the Reconstruction Bank, have been properly incurred by it as incidental thereto, shall be recoverable out of the money received by the Reconstruction Bank by the sale or lease of the property referred to in sub-section (1) and shall, in the absence of any contract to the contrary, be held by it in trust, to be applied, firstly, in payment of such costs, charges and expenses and, secondly, in the discharge of the dues of the Reconstruction Bank and the residue of the money so received shall be paid to the person entitled thereto in accordance with his rights and interests.

(4) The Reconstruction Bank may, instead of exercising the powers conferred on it by sub-section (1), apply for the sale or lease of the property referred to in sub-section (1) or for any other relief, to the High Court within the local limits of whose jurisdiction the property aforesaid is situated, and, thereupon, the provisions of section 40 shall, without prejudice to the provisions of section 69 of the Transfer of Property Act, 1882 (4 of 1882) apply thereto as if the property aforesaid were the property referred to in section 40, and powers shall be exercisable by the High Court accordingly.

42. Power of reconstruction Bank to appoint directors or administrators of an industrial concern when management thereof is taken over.—(1) When the management of an industrial concern is taken over by the Reconstruction Bank, that Bank may, by order, notified in the Official Gazette, appoint as many persons as it thinks fit,—

(a) in any case in which the industrial concern is a company, as defined in the Companies Act, 1956 (1 of 1956) to be the directors of that industrial concern ; or

(b) in any other case, to be the administrator of that industrial concern.

(2) The power to appoint directors or administrators under this section includes the power to appoint any individual, firm or body corporate to be the manager of the industrial concern on such terms and conditions as the Reconstruction Bank may think fit.

(3) For the removal of doubts, it is hereby declared that the power to appoint directors, administrators or managers includes the power to remove or replace the person so appointed

(4) Nothing in the Companies Act, 1956 (1 of 1956), or in any other law for the time being in force or in any instrument relating to the industrial concern shall, in so far as it makes, in relation to a director, any provision for the holding of any share qualification, age limit, restriction on the number of directorships, retirement by rotation or removal from office, apply to any director appointed by the Reconstruction Bank under this section.

43. Effect of notified order under section 42.—On the issue of a notified order under section 42—

(a) if the industrial concern is a company as defined in the Companies Act, 1956, (1 of 1956), all persons holding office as directors of the industrial concern, and in any other case, all persons holding any office having the powers of superintendence, direction and control of the industrial concern, immediately before the issue of the notified order, shall be deemed to have vacated their offices as such ;

(b) any contract of management between the industrial concern and any director or manager thereof holding office as such immediately before the issue of the notified order shall be deemed to have terminated ;

(c) the directors or administrators, appointed under section 42, shall take such steps, as may be necessary to take into their custody or under their control, the property, effects and actionable claims to which the industrial concern is, or appears to be, entitled, and all the property and effects of the industrial concern shall be deemed to be in the custody of the directors or administrators, as the case may be, as from the date of the notified order ;

(d) the directors appointed under section 42 shall, for all purposes, be the directors of the industrial concern duly constituted under the Companies Act, 1956 (1 of 1956) and such directors, or, as the case may be, or, the administrators appointed under section 42, shall alone be entitled to exercise all the powers of the directors, or, as the case may be, of the persons exercising powers of superintendence, direction and control of the in-

industrial concern, whether such powers are derived from the said Act or from the memorandum or articles of association of the industrial concern or from any other source whatsoever.

44. *Powers and duties of directors and administrators.*—(1) Subject to the control of the Reconstruction Bank, the directors, or, as the case may be, the administrators appointed under section 42, shall take such steps as may be necessary for the purpose of efficiently managing the business of the industrial concern and shall exercise such powers and have such duties as may be prescribed.

(2) Without prejudice to the generality of the powers vested in them under sub-section (1), the directors, or, as the case may be, the administrators appointed under section 42, may, with the previous approval of the Reconstruction Bank make an application to a court for the purpose of cancelling or varying any contract or agreement entered into, at any time before the issue of the notified order under section 42, between the industrial concern and any other person, and the court may be, if satisfied after due inquiry that such contract or agreement had been entered into in bad faith and is detrimental to the interests of the industrial concern, make an order cancelling or varying (either unconditionally or subject to such conditions as it may think fit to impose) that contract or agreement and the contract or agreement shall have effect accordingly.

45. *No right to compensation for termination of contract of managing director, etc.*—(1) Notwithstanding anything to the contrary contained in any contract or in any law for the time being in force, no managing or whole-time director or any other director or a manager or any person in charge of management of an industrial concern shall be entitled to any compensation for the loss of office or for the premature termination, under this Act, of any contract of management entered into by him with such concern.

(2) Nothing contained in sub-section (1) shall affect the right of any such managing or whole-time director, or any other director or manager or any such person in charge of management to recover from the industrial concern, moneys recoverable otherwise than by way of such compensation.

46. *Application of Act 1 of 1956.*—(1) Where the management of an industrial concern, being a company as defined in the Companies Act, 1956 (1 of 1956), is taken over by the Reconstruction Bank, then, notwithstanding anything contained in the said Act or in the memorandum or articles of association of such concern;—

- (a) it shall not be lawful for the shareholders of such concern or any other person to nominate or appoint any person to be a director of the concern ;
- (b) no resolution passed at any meeting of the shareholders of such concern shall be given effect to unless approved by the Reconstruction Bank ;
- (c) no proceeding for the winding up of such concern or for the appointment of a receiver in respect thereof shall lie in any court, except with the consent of the Reconstruction Bank.

(2) Subject to the provisions contained in sub-section (1) and to the other provisions contained in this Act and subject to such other exceptions, restrictions and limitations, if any, as the Central Government may, by notification in the official Gazette, specify in this behalf, the Companies Act, 1956 (1 of 1956), shall continue to apply to such concern in the same manner as it applied thereto before the issue of the notified order under section 42.

47. *Restriction on filing of suits for dissolution, etc. of an industrial concern not being a company when its management is taken over.*—Where the management of an industrial concern not being a company as defined in the Companies Act, 1956 (1 of 1956), is taken over by the Reconstruction Bank, no suit or proceedings for dissolution or for partition shall, in so far as it relates to that industrial concern, lie in any court or before any tribunal or other authority except with the consent of the Reconstruction Bank.

48. *Official assignee or receiver not to be appointed without the consent of the Reconstruction Bank.*—No proceeding for the appointment of any official assignee or receiver in relation to any industrial concern the management of which has been taken over by the Reconstruction Bank shall lie in any court except with the consent of the Reconstruction Bank.

49. *Power of Central Government to grant relief in the case of certain assisted industrial concerns.*—(1) The Central Government may, if it is satisfied on an application made to it by the Reconstruction Bank that it is necessary so to do for the purpose of reconstructing, reviving or rehabilitating any assisted industrial concern, declare by notification in the Official Gazette, that the operation of all or any of the contracts, assurances of property, agreements, settlements, awards, standing orders or other instruments in force (to which such assisted industrial concern) is a party, or which may be applicable to such assisted industrial concern immediately before the issue of such notified order, shall remain suspended or any rights, privileges, obligations and liabilities accruing or arising thereunder before the said date, shall remain suspended or shall be enforceable with such adaptations and in such manner as may be specified in the notified order.

(2) The notified order made under sub-section (1) shall remain in force, in the first instance, for a period of two years, but the duration of such order may be extended from time to time by a further notified order by a period not exceeding two years at a time :

Provided that no such order shall in any case remain in force for more than eight years in the aggregate from the date of issue of the first notified order.

(3) Any notified order made under sub-section (1) shall have effect notwithstanding anything to the contrary contained in any other law agreement or instrument or any decree or order of a court, tribunal, officer or other authority or of any submission, settlement or standing order.

(4) Any remedy for the enforcement of any right, privilege, obligation or liability referred to in sub-section (1) and suspended or modified by notified order made under that sub-section shall, in accordance with the terms of that notified order, remain suspended or modified, and all proceedings relating thereto pending before any court, tribunal, officer or other authority shall accordingly remain stayed or be continued subject to such adaptations, so, however that on the notified orders ceasing to have effect—

- (a) any right, privilege, obligation or liability so remaining suspended or modified shall become revived and enforceable as if the notified order had never been made ;

- (d) any proceeding so remaining stayed shall be proceeded with, subject to the provisions of any law which may then be in force, from the stage which had been reached when the proceeding became stayed.
- (5) In computing the period of limitation for the enforcement of any right, privilege, obligation or liability referred to in sub-section (1), the period during which it or the remedy for the enforcement thereof, remained suspended shall be excluded.
- (6) During the period of operation of the notified order made under sub-section (1), the Central Government may, if satisfied that it is necessary so to do in the public interest,—
- (a) for the reconstruction, revival or rehabilitation of an assisted industrial concern ; or
 - (b) for the proper management of the assisted industrial concern ; or
 - (c) for scaling down the liabilities of the assisted industrial concern, where the financial condition and other circumstance of the assisted industrial concern are such that such scaling down is necessary.

authorise the Reconstruction Bank to prepare a scheme—

- (i) for the reconstruction, revival or rehabilitation of the assisted industrial concern ; or
 - (ii) for scaling down the liabilities of the assisted industrial concern ; or
 - (iii) for the amalgamation of the assisted industrial concern with any other industrial concern (referred to in this section as the "transferee industrial concern").
- (7) The scheme referred to in sub-section (6) may contain provisions for all or any of the following matter, namely;—
- (a) the constitution, name and registered office, the capital, assets, powers, rights, interests, authorities and privileges, the liabilities, duties and obligations of the assisted industrial concern on its reconstruction, or, as the case may be, of the transferee industrial concern ;
 - (b) in the case of amalgamation of the assisted industrial concern, the transfer to the transferee industrial concern of the business, properties, assets and liabilities of the assisted industrial concern on such terms and conditions as may be specified in the scheme ;
 - (c) any change in the Board of Directors, or the appointment of a new Board of Directors, of the assisted industrial concern on its reconstruction, or, as the case may be, of the transferee industrial concern and the authority by whom, the manner in which, and the other terms and conditions on which, such change or appointment shall be made and in the case of appointment of a new Board of Directors or of any director, the period for which such appointment shall be made ;
 - (d) the alteration of the memorandum and articles of association of the assisted industrial concern in its reconstruction, or, as the case may be, of the transferee industrial concern for the purpose of altering the capital thereof or for such other purposes as may be necessary to give effect to the reconstruction or amalgamation ;
 - (e) subject to the provisions of the scheme, the continuation by, or against, the assisted industrial concern on its reconstruction or, as the case may be, the transferee industrial concern of any actions or proceedings pending against the assisted industrial concern immediately before the date of the notified order made under sub-section (1) ;
 - (f) the reduction of the interest or rights which the members and other creditors have, in, or against, the assisted industrial concern before its reconstruction or amalgamation to such extent as the Reconstruction Bank considers necessary in the interests of the reconstruction, revival or rehabilitation of the assisted industrial concern or for the maintenance of the business of the assisted industrial concern ;
 - (g) the payment in cash or otherwise to the members and other creditors in full satisfaction of their claims—
 - (i) in respect of their interests or rights, in, or against, the assisted industrial concern before the reconstruction or amalgamation ; or
 - (ii) where their interests or rights aforesaid, in, or against, the assisted industrial concern has or have been reduced under clause (f), in respect of such interests or rights as so reduced ;
 - (h) the vesting of controlling interest, in the reconstructed industrial concern, in the Central Government or its nominee either by the appointment of additional director or by the allotment of additional shares ;
 - (i) the allotment to the members of the assisted industrial concern, for any share or shares held by them therein before its reconstruction or amalgamation [whether their interest on such shares has been reduced under clause (f) or not], of shares in the assisted industrial concern on its reconstruction, or, as the case may be, in the transferee industrial concern and where any member claims payment in cash and not allotment of shares, or where it is not possible to allot shares to any member, the payment in cash to those members in full satisfaction of their claims,—
 - (i) in respect of their interest in shares in the assisted industrial concern before its reconstruction or amalgamation ; or
 - (ii) where such interest has been reduced under clause (f), in respect of their interest in shares as so reduced ;
 - (j) the continuance of the services of such of the employees of the assisted industrial concern as may be specified in the scheme, in the assisted industrial concern itself on its reconstruction, or in the transferee industrial concern on such terms and conditions as may be specified in the scheme ;
 - (k) notwithstanding anything contained in clause (j), where any employees of the assisted industrial concern whose services are proposed in the draft scheme referred to in sub-section (2), have, by notice in writing given to the Reconstruction Bank at any time before the expiry of one month next following the date on which the draft scheme is sent to the assisted industrial concern, intimated their intention of not becoming employees,

of the assisted industrial concern on its reconstruction or in the transferee industrial concern, the payment, to such employees, and to other employees whose services have not been continued in the assisted industrial concern on its reconstruction or in the transferee industrial concern, of compensation, if any, to which they are entitled under the Industrial Disputes Act, 1947 (14 of 1947), and such pension, gratuity, provident fund and other retirement benefits ordinarily admissible to them under the rules or authorisations of the assisted industrial concern as in force immediately before the date of its reconstruction or amalgamation;

- (f) any other terms and conditions for the reconstruction or amalgamation of the assisted industrial concern;
- (m) such incidental, consequential and supplemental matters as are necessary to secure that the reconstruction or amalgamation shall be fully and effectively carried out.
- (8) (a) A copy of the scheme prepared by the Reconstruction Bank shall be sent, in draft to the assisted industrial concern and also to the transferee industrial concern and any other industrial concern concerned in the amalgamation for suggestions and objections, if any, within such period as the Reconstruction Bank may specify for this purpose;
- (b) The Reconstruction Bank may make such modifications, if any, in the draft scheme as it may consider necessary in the light of the suggestions and objections received from the assisted industrial concern and as also from the transferee industrial concern, and any other industrial concern concerned in the amalgamation and from any members or other creditors of such industrial concerns and the transferee industrial concern :

Provided that where the transferee industrial concern is a company, the scheme aforesaid shall be laid before such company in the general meeting for the approval of the scheme by its members and no such scheme shall be proceeded with unless it has been approved, with or without modification, by a special resolution passed by the members of such company.

(9) The scheme shall thereafter be placed before the Central Government for its sanction and the Central Government may sanction the scheme without any modifications or with such modifications as it may consider necessary, and the scheme as sanctioned by the Central Government shall come into force on such date as the Central Government may specify in this behalf :

Provided that different dates may be specified for different provisions of the scheme.

(10) For the purpose of assisting it to exercise the powers conferred on it by sub-section (9), the Central Government may constitute an advisory committee consisting of such officers of the Central Government, Reserve Bank, State Bank, public financial institutions and nationalised banks, having knowledge of, or experience in, one or more of the following matters, namely:—

- (a) industry and industrial sickness ;
- (b) finance and banking ;
- (c) industrial relations ;
- (d) law,

as it may think fit.

(11) The sanction accorded by the Central Government under sub-section (9) shall be conclusive evidence that all the requirements of this scheme relating to the reconstruction, or, as the case may be, amalgamation, have been complied with and a copy of the sanctioned scheme certified in writing by an officer of the Central Government to be a true copy thereof, shall, in all legal proceedings (whether in appeal or otherwise) be admitted as evidence to the same extent as the original scheme.

(12) On and from such date of the coming into operation of the scheme or any provision thereof, the scheme or such provision shall be binding on the assisted industrial concern, or, as the case may be, on the transferee industrial concern, and any other industrial concern concerned in the amalgamation and also on all the members and other creditors and employees of each of those assisted industrial concerns and of the transferee industrial concern, and on any other person having any right or liability in relation to any of the assisted industrial concerns or the transferee industrial concern including the trustees or other persons managing, or connected in any manner with, any provident fund or other fund maintained by any of those industrial concerns or the transferee industrial concern.

(13) On and from such date as may be specified by the Central Government in this behalf, the properties, and the assets of the assisted industrial concern shall, by virtue of, and to the extent provided in the scheme, stand transferred to, and vest in, and the liabilities of the assisted industrial concern shall, by virtue of, and to the extent, provided in, the scheme stand transferred to, and become the liabilities of, the transferee industrial concern.

(14) If any difficulty arises in giving effect to the provisions of the scheme, the Central Government may, by order, do anything, not inconsistent with such provisions, which appears to it to be necessary or expedient for the purpose of removing the difficulty.

(15) Copies of the scheme or of any order made under sub-section (14) shall be laid before each House of Parliament, as soon as may be, after the scheme has been sanctioned by the Central Government, or, as the case may be, the order has been made.

(16) Where the scheme is a scheme for amalgamation of the assisted industrial concern, any business acquired by the transferee industrial concern under the scheme or under any provisions thereof shall, after the coming into operation of the scheme or such provision, be carried on by the transferee industrial concern, in accordance with the law governing the transferee industrial concern, subject to such modifications in that law or such exemptions of the transferee industrial concern from the operation of any provisions thereof as the Central Government, on the recommendation

of the Reconstruction Bank, may, by notification in the Official Gazette, make for the purposes of giving full effect to the scheme :

Provided that no such modification or exemption shall be made so as to have effect for a period of more than seven years from the date of the acquisition of such business.

(17) Nothing in this sub-section shall be deemed to prevent the amalgamation with an assisted industrial concern by a single scheme of several industrial concerns in respect of each of which an order has been made under sub-section (1) of this section.

50. *Power of High Court to authorise Reconstruction Bank to prepare scheme for reconstruction, etc., of industrial concern.*—(1) Where any company, being an industrial concern, is being wound up by the High Court, and the High Court is of opinion that a scheme should be made for the reconstruction, revival or rehabilitation of such industrial concern, it may, by order, authorise the Reconstruction Bank to prepare, and submit to it, a scheme for such reconstruction, revival or rehabilitation of the industrial concern.

(2) The Reconstruction Bank may, in pursuance of the order made by the court under sub-section (1), prepare a scheme for the reconstruction, revival or rehabilitation of the industrial concern referred to in sub-section (1), and the scheme so made may contain all or any of the matters specified in sub-section (7) of section 49 :

Provided that no such scheme shall provide for the amalgamation or merger of the company in liquidation or of any undertaking owned by it with any other company, or any other undertaking owned by such other company, except on the authority of a special resolution passed by the members of that other company.

(3) The High Court may, if it is satisfied, after considering the scheme prepared under sub-section (2), that the scheme ensures the reconstruction, revival or rehabilitation of the industrial concern which is a company being wound up by the court; and such reconstruction, revival or rehabilitation would ensure an increase in the production of goods needed by the community, approve the scheme with or without any modification and the scheme so approved shall have effect, notwithstanding anything to the contrary contained in any other provisions of this Act or any other law, or any agreement, award or other instrument for the time being in force.

51. *Chief Metropolitan Magistrate and District Magistrate to assist Reconstruction Bank in taking charge of property.*—(1) Where any property, effects or actionable claims have been sold or leased in pursuance of any power conferred by section 39, section 40 or section 41 or where the management of an industrial concern is taken over by the Reconstruction Bank or its nominee or an undertaking or an industrial concern is amalgamated under section 49, the Reconstruction Bank or the administrator or any director, or any other person authorised by the Reconstruction Bank may, for the purpose of taking into custody or control any such property, effects or actionable claims, may, request in writing the Chief Metropolitan Magistrate or the District Magistrate within whose jurisdiction any property or books of account or other documents relating to such property or effects or actionable claims may be situated, or found, to take possession thereof, and the Chief Metropolitan Magistrate or the District Magistrate, as the case may be, shall, on such request being made to him,—

(a) take possession of such property, effects or actionable claims and books of account and other documents relating thereto, and

(b) forward them to the Reconstruction Bank, administrator, director or other person, as the case may be.

(2) For the purpose of securing compliance with the provisions of sub-section (1), the Chief Metropolitan Magistrate or the District Magistrate may take or cause to be taken such steps and use, or cause to be used, such force as may, in his opinion, be necessary.

(3) No act of the Chief Metropolitan Magistrate or the District Magistrate done in pursuance of this section shall be called in question in any court or before any authority.

CHAPTER IX

MISCELLANEOUS

52. *Effect of the Act on other laws.*—The provisions of this Act and of any rule or scheme made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in the memorandum or articles of association of an industrial concern or in any other instrument having effect by virtue of any law other than this Act.

53. *Act 43 of 1961, Act 7 of 1964 and Act 45 of 1974 not to apply to Reconstruction Bank.*—Notwithstanding anything contained in the Income-tax Act, 1961, or the Companies (Profits) Surtax Act, 1964 or the Interest-tax Act, 1974, or any other enactment for the time being in force relating to tax on income, profits or gains, the Reconstruction Bank shall not be liable to pay income-tax, surtax, interest-tax, or any other tax in respect of—

(a) any income, profits or gains accruing to the Reconstruction Assistance Fund or any amount received to the credit of that Fund ;

(b) any income, profits or gains derived, or any amount received, by the Reconstruction Bank ; and

(c) any interest collected by, or payable to, the Reconstruction Bank in accordance with the provisions of the Interest-tax Act, 1974.

54. *Law relating to winding up not to apply to the Reconstruction Bank.*—No provision of law relating to winding up of corporations shall apply to the Reconstruction Bank and the Reconstruction Bank shall not be placed in liquidation, save by order of the Central Government and in such manner as it may direct.

55. *Act 18 of 1891 to apply to the books of the Reconstruction Bank.*—The Reconstruction Bank shall be deemed to be a bank for the purposes of the Bankers' Books Evidence Act, 1891.

56. Certain provisions of Act 10 of 1949 not to apply to Reconstruction Bank.—Nothing contained in the Banking Regulation Act, 1949, except the provisions of section 34A and section 36AD, shall apply to the Reconstruction Bank.

57. Act 54 of 1969 not to apply to the expansion or amalgamation of certain undertakings.—No provision of the Monopolies and Restrictive Trade Practices Act, 1969 in relation to the amalgamation, merger, modernisation or expansion of any undertaking to which Part III of that Act applies, shall apply when such amalgamation, merger, modernisation or expansion of such undertaking takes place as a result of any sale, lease, purchase, amalgamation or merger in accordance with the provisions of this Act.

58. Returns.—The Reconstruction Bank shall furnish, from time to time, to the Central Government and the Reserve Bank such returns as the Central Government, or, as the case may be, Reserve Bank, may require.

59. Delegation of powers.—The Board may, by general or special order, delegate, subject to such conditions and limitations, if any, as may be specified in the said order, to the Executive Committee or any other committee constituted under this Act or to any director, officer or other employee of the Reconstruction Bank or to the directors, administrators, officers, or other person authorised by the Reconstruction Bank to manage any assisted industrial concern or any undertaking owned by such assisted industrial concern, such of its powers and duties under this Act as it may deem necessary.

60. Staff of the Reconstruction Bank.—(1) Without prejudice to the provisions of section 7, the Reconstruction Bank may appoint such number of officers and other employees as it considers necessary or desirable for the efficient performance of its functions and determine their terms and conditions of appointment and service.

(2) The Reconstruction Bank may, notwithstanding anything contained in any other law for the time being in force or in any contract, depute any of its officers or other members of its staff to, or receive on deputation from, prescribed institutions on such terms and conditions as may be prescribed, and may also depute any of its officers or other members of its staff to any assisted industrial concern :

Provided that nothing contained in this section shall be construed as empowering the Reconstruction Bank to depute to any prescribed institution or assisted industrial concern any officer or other member of its staff on any salary, emoluments or other terms and conditions of service which are less favourable to him than those to which he was entitled immediately before such deputation.

61. Obligations as to fidelity and secrecy.—(1) The Reconstruction Bank shall observe, except as otherwise required by law, the practices and usages customary among bankers and, in particular, it shall not, except as otherwise provided in sub-section (3), divulge any information relating to, or to the affairs of, the assisted industrial concern, except in circumstances in which it is, in accordance with law or practices and usages, customary among bankers, necessary or appropriate for the Reconstruction Bank to divulge such information.

(2) Every director, auditor, adviser, officer or any other employee of the Reconstruction Bank shall, before entering upon his duties, make a declaration of fidelity and secrecy in the form set out in the Second Schedule.

(3) The Reconstruction Bank may, for the purpose of efficient discharge of its functions under this Act, collect from, or furnish to,—

(a) the Central Government,

(b) the Reserve Bank,

(c) the State Bank, or any subsidiary bank within the meaning of the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), or any nationalised bank, or any other scheduled bank, or any State co-operative bank or the Development Bank or other public financial institutions, or State level agencies or prescribed institutions or State Financial Corporations,

such credit information or other information as it may consider useful for the purpose, in such manner and at such times, as it may think fit.

Explanation.—For the purposes of this sub-section, the expression "credit information" shall have the same meaning as in clause (c) of section 45A of the Reserve Bank of India Act, 1934 (2 of 1934), subject to the modification that the banking company referred to therein shall mean an assisted industrial concern.

62. Provident fund.—(1) The Reconstruction Bank shall constitute, for the benefit of the officers and other employees appointed under section 60 (as also for the officers and other employees whose services have been transferred to it under section 7) in such manner and subject to such conditions as may be prescribed, such insurance and provident fund as it may deem fit.

(2) Where any such insurance or provident fund has been so constituted the Central Government may declare that the provisions of the Provident Funds Act, 1925 (19 of 1925) shall apply to such fund as if it were a Government Provident Fund.

63. Indemnity of directors.—(1) Every director shall be indemnified by the Reconstruction Bank against all losses and expenses incurred by him in or in relation to the discharge of his duties, except such as are caused by his own wilful act or default.

(2) A director shall not be responsible for any other director or for any officer or other employee of the Reconstruction Bank or for any loss or expenses resulting to the Reconstruction Bank from the insufficiency or deficiency of the value of, or title to, any property or security acquired or taken on behalf of the Reconstruction Bank or the insolvency or wrongful act of any debtor or any person under obligation to the Reconstruction Bank or any thing done in good faith in execution of the duties of his office or in relation thereto.

64. Protection of action taken in good faith.—No suit or other legal proceeding shall lie against the Reconstruction Bank, or any director, or officer, or other employee of the Reconstruction Bank, or any other person authorised

by the Reconstruction Bank to discharge any functions under this Act, for any loss or damage caused or is likely to be caused by anything which is in good faith done or intended to be done, in pursuance of this Act or any other law or provision having the force of law.

65. *Chairman, Director, etc., to be public servants.*—Chairman, director, adviser and auditor and every other employee of the Reconstruction Bank shall be deemed to be public servant for the purposes of Chapter IX of the Indian Penal Code (45 of 1860).

66. *Penalty for making false statement in applications for loans and advances.*—If in any application, return or statement or other document made, submitted, furnished or produced for the purpose of obtaining any loan or advance or any other assistance from the Reconstruction Bank any person makes a statement—

- (a) which is false in any material particular, knowing it to be false ; or
- (b) which omits to state any material fact, knowing it to be material ;

he shall be punishable with imprisonment for a term which may extend to two years, and shall also be liable to fine.

67. *Offences by companies.*—(1) Where any offence, punishable under section 66, has been committed by a company, every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), when any offence punishable under section 66 has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section—

- (a) “company” means anybody corporate and includes a firm or other association of individuals ; and
- (b) “director”, in relation to a firm, means a partner in the firm.

38. *Power to make rules.*—(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) institutions and agencies in, and outside India, payment or whose loans may be guaranteed, counter-guaranteed or indemnified by the Reconstruction Bank, as may be specified under sub-section (1) of section 18 ;
- (b) institutions and agencies which may be provided with the line of credit by the Reconstruction Bank for grant of loans and advances by them to industrial concerns as may be specified under clause (d) of sub-section (1) of section 18 ;
- (c) persons who may be appointed to act as the agents of the Reconstruction Bank as required by clause (g) of sub-section (1) of section 18 ;
- (d) borrowing of foreign currency from any source, other than the source specified in sub-section (1) of section 23 ;
- (e) the powers which may be exercised and duties which may be performed by any director or administrator appointed under sub-section (1) of section 44 ;
- (f) the manner in which and the conditions subject to which an insurance or provident fund may be constituted by the Reconstruction Bank as required by sub-section (1) of section 62 ;
- (g) any other matter which is required to be, or may be, prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be ; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

69. *Power of Reconstruction Bank to make regulations.*—(1) The Board may, with the previous sanction of the Central Government make regulations, not inconsistent with the provisions of this Act and the rules made thereunder, to provide for all matters for which regulations are necessary or expedient for the purpose of giving effect to the provisions of this Act and of the rules made thereunder.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

- (a) restrictions relating to the powers which may be exercised by the Chairman, in pursuance of the provisions of sub section (2) of section 9 ;

- (b) the time and place at which the Board shall meet and the rules of procedure (including quorum) which shall be observed by the Board in regard to the transaction of business at its meetings, as required by sub-section (1) of section 14;
- (c) (i) the constitution of the Executive Committee or other committees and the functions thereof;
- (ii) the time and place at which such committees shall meet; and
- (iii) the rules of procedure (including quorum) which shall be observed by each Committee in relation to the transaction of business at its meetings, as required by section 15;
- (d) fees and allowances which may be paid to the directors and members of the committee, as required by section 17 ;
- (e) conditions and limitations, subject to which an industrial concern may enter into any kind of business, as required by clause (f) of sub-section (2) of section 19;
- (f) the form and manner in which the balance sheet and accounts of the Reconstruction Assistance Fund shall be prepared, as required by sub-section (1) of section 29;
- (g) the form and the manner in which the balance sheet and accounts of the Reconstruction Bank shall be prepared, as required by sub-section (1) of section 32;
- (h) the duties, conduct, salaries, allowances and conditions of service of officers and other employees (whether employed on regular basis or on contract) of the Reconstruction Bank and all those who are appointed for the management of any undertaking, the management of which has been taken over; and
- (i) any other matter which is required to be, or may be, provided for by regulations.

(3) The Central Government shall cause every regulation made under this Act to be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation, or both Houses agree that the regulation should not be made, the regulation shall thereafter, have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.

70. Power to remove difficulties.—If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by notification in the Official Gazette, remove the difficulty :

Provided that no such notification shall be made after the expiry of a period of two years from the appointed day.

71. Amendment of certain enactments.—The enactments specified in Parts I to III of the Third Schedule to this Act shall be amended in the manner directed in the first column thereof and such amendments shall take effect on the dates specified in the second column of that Schedule.

72. Substitution in Acts, rules or regulations of the Reconstruction Bank in place of the Corporation.—In every Act, rule or regulation in force on the appointed day, for the words "Industrial Reconstruction Corporation of India Limited", wherever they occur, the words "Industrial Reconstruction Bank of India" shall be substituted.

THE FIRST SCHEDULE

(See section 37)

DECLARATION REFERRED TO IN SECTION 37 OF THE INDUSTRIAL RECONSTRUCTION BANK OF INDIA ACT, 1984

I/We.....hereby declare that in consideration of the assistance given to me/us or at my/our request, by the 'Industrial Reconstruction Bank of India, as specified in the Annexure hereto. I/we agree that the immovable properties specified in the said Annexure shall form a security for the said assistance and I/we agree that the dues arising out of such assistance shall, on and from the date of execution of these presents, be a charge on the said properties for the recovery of the dues of the said Reconstruction Bank.

Execution by the parties.

1. Signed and delivered by.....
(party receiving the assistance)

2. Signed and delivered by.....
(the concerned person furnishing guarantee/collateral security).

3. Signed by the duly authorised official of Reconstruction Bank

(Note.—Strike out whichever is not applicable).

THE SECOND SCHEDULE

(See section 61)

DECLARATION OF FIDELITY AND SECRECY

I,, do hereby declare that I will faithfully, truly and to the best of my skill and ability, execute and perform the duties required of me as the Chairman, Director, member of committee, auditor, adviser, officer or other employee of the Reconstruction Bank of India and which properly relate to the office or position held by me in or in relation to the said Reconstruction Bank.

I further declare that I will not communicate or allow to be communicated to any person not legally entitled thereto any information relating to the affairs of the Industrial Reconstruction Bank of India or to the affairs of any person having any dealing with the said Reconstruction Bank, nor will I allow any such person to inspect or have access to any books or documents belonging to or in possession of the said Reconstruction Bank and relating to the business of the said Reconstruction Bank or the business of any person having any dealing with the said Reconstruction Bank.

(Signature)

Signed before me.

THE THIRD SCHEDULE

(See section 71)

Amendments of certain enactments

PART I

AMENDMENTS TO THE RESERVE BANK OF INDIA ACT, 1934

(2 of 1934)

Amendments	Date on which amendments shall take effect
1	2
1. In section 2, after clause (civ), insert the following clause, namely:—	The date of establishment of the Reconstruction Bank.
‘(cv) “Reconstruction Bank” means the Industrial Reconstruction Bank of India established under section 3 of the Industrial Reconstruction Bank of India Act, 1984.’	
2. In section 17,—	
(a) in clause (4G), after the words “the Exim Bank”, insert the words “or the Reconstruction Bank”;	-do-
(b) in clause (4J), after the words “Exim Bank”, insert the words “or Reconstruction Bank”;	-do-
(c) after clause (4J), insert the following clause, namely:—	-do-
“(4K) the making to the Reconstruction Bank of loans and advances—	
(a) repayable on demand or on the expiry of a fixed period not exceeding ninety days, from the date of such loan or advance against the security of stocks, funds and securities (other than immovable property) in which a trustee is authorised to invest trust money by any law for the time being in force in India ; or	
(b) against the security of bills of exchange or promissory notes, arising out of bona fide commercial or trade transactions bearing two or more good signatures and maturing within five years from the date of advance, ”;	-do-
(d) in clause (12B), after the words “the Exim Bank”, insert the words “or the Reconstruction Bank”.	
3. In section 42, in sub-clause (ii) of clause (c) of the Explanation below the proviso to sub-section (i), after the words “or from the Exim Bank”, insert the words “or from the Reconstruction Bank”.	-do-
4. In section 46C, in clauses (c) and (d) of sub-section (2), after the words “Exim Bank” wherever they occur, insert the words “or the Reconstruction Bank, as the case may be.”.	-do-

PART II

AMENDMENT TO THE INDUSTRIAL DISPUTES ACT, 1947

(14 of 1947)

Amendment	Date on which amendment shall take effect
1	2
In section 2, in clause (bb), after the words "Export-Import Bank of India", insert the words, "the Industrial Reconstruction Bank of India."	The date of establishment of the Industrial Reconstruction Bank of India.

PART III

AMENDMENTS TO THE BANKING REGULATION ACT, 1947

(10 of 1949)

Amendments	Date on which amendments shall take effect
1	2
1. In section 5, after clause ((fb), insert the following clause, namely— (ffe) "Reconstruction Bank" means the Industrial Reconstruction Bank of India established under section 3 of the Industrial Reconstruction Bank of India Act, 1984;"	The date of establishment of the Reconstruction Bank.
2. In section 18, in the Explanation, in sub-clause (ii) of clause (a), after the words "or from the Exim Bank", insert the words "or from the Reconstruction Bank".	-do-
3. In section 34A, in sub-section (3), after the words "the Exim Bank", insert the words "the Reconstruction Bank".	-do-
4. In section 36AD, in sub-section (3), after the words "the Exim Bank", insert the words "the Reconstruction Bank".	-do-
5. In section 56, in sub-clause (ii) of clause (a) of the Explanation under clause (j), after the words "the Exim Bank", insert the words "the Reconstruction Bank".	-do-

Assented to on 11th September, 1984.

THE DOWRY PROHIBITION (AMENDMENT) ACT, 1984

(Act No. 63 of 1984)

AN

ACT

to amend the Dowry Prohibition Act, 1961

BE it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Dowry Prohibition (Amendment) Act, 1984.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
2. *Amendment of section 2.*—In section 2 of the Dowry Prohibition Act, 1961 (28 of 1961) (hereinafter referred to as the principal Act),—
 - (a) for the words "as consideration for the marriage of the said parties, but does not include," the words "in connection with the marriage of the said parties, but does not "include" shall be substituted ;
 - (b) *Explanation I* shall be omitted.

3. *Amendment of section 3.*—Section 3 of the principal Act shall be renumbered as sub-section (1) of that section and,—

- (a) in sub-section (1) as so renumbered, for the words “with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both”, the following shall be substituted, namely :—

“with imprisonment for a term which shall not be less than six months, but which may extend to two years, and with fine which may extend to ten thousand rupees or the amount of the value of such dowry, whichever is more :

Provided that the Court may, for adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a term of less than six months.”;

- (b) after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:—

“(2) Nothing in sub-section (1) shall apply to, or in relation to,—

- (a) presents which are given at the time of a marriage to the bride (without any demand having been made in that behalf) :

Provided that such presents are entered in a list maintained in accordance with the rules made under this Act;

- (b) presents which are given at the time of a marriage to the bridegroom (without any demand having been made in that behalf) :

Provided that such presents entered in a list maintained in accordance with the rules made under this Act;

Provided further that where such presents are made by or on behalf of the bride or any person related to the bride, such presents are of a customary nature and the value thereof is not excessive having regard to the financial status of the person by whom, or on whose behalf, such presents are given”.

4. *Substitution of section 4.*—For section 4 of the principal Act, the following section shall be substituted, namely:—

“4. *Penalty for demand of dowry.*—If any person demands, directly or indirectly, from the parents or other relatives or guardian of a bride or bridegroom, as the case may be, any dowry, he shall be punishable with imprisonment for a term which shall not be less than six months, but which may extend to two years and with fine which may extend to ten thousand rupees :

Provided that the Court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than six months.”.

5. *Amendment of section 6.*—In section 6 of the principal Act,—

- (a) in sub-section (1), for the words “one year”, wherever they occur, the words “three months” shall be substituted;

- (b) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) If any person fails to transfer any property as required by sub-section (1) within the time limit specified therefor, he shall be punishable with imprisonment for a term which shall not be less than six months, but which may extend to two years or with fine which may extend to ten thousand rupees or with both.”;

- (c) after sub-section (3), the following sub-section shall be inserted, namely:—

“(3A) Where a person convicted under sub-section (2) for failure to transfer any property as required by sub-section (1) has not, before his conviction under that sub-section, transferred such property to the woman entitled thereto or, as the case may be, her heirs, the Court shall, in addition to awarding punishment under that sub-section, direct, by order in writing, that such person shall transfer the property to such woman or, as the case may be, her heirs within such period as may be specified in the order, and if such person fails to comply with the direction within the period so specified, an amount equal to the value of the property may be recovered from him as if it were a fine imposed by such Court and paid to such woman or, as the case may be, her heirs.”.

6. *Substitution of section 7.*—For section 7 of the principal Act, the following section shall be substituted, namely :—

“7. *Cognizance of offences.*—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974)—

- (a) no court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence under this Act;

- (b) no court shall take cognizance of an offence under this Act except upon—

- (i) its own knowledge or a police report of the facts which constitute such offence, or
(ii) a complaint by the person aggrieved by the offence or a parent or other relative of such person, or by any recognized welfare institution or organisation;

- (c) it shall be lawful for a Metropolitan Magistrate or a Judicial Magistrate of the first class to pass any sentence authorised by this Act on any person convicted of any offence under this Act.

Explanation.—For the purposes of this sub-section, “recognized welfare institution or organisation” means a social welfare institution or organisation recognized in this behalf by the Central or State Government.

विचार वि
पद के मत
परन्तु
को अपेक्ष
अप्राप्त है
विचार।

(2) Nothing in Chapter XXXVI of the Code of Criminal Procedure, 1973, shall apply to any offence punishable under this Act (2 of 1974).

7. *Substitution of section 8.*—For section 8 of the principal Act, the following section shall be substituted, namely:—

“8. *Offences to be cognizable for certain purposes and to be bailable and non compoundable.*—(1) The Code of Criminal Procedure, 1973 (2 of 1974) shall apply to offences under this Act as if they were cognizable offences:—

(a) for the purposes of investigation of such offences; and

(b) for the purposes of matters other than—

(i) matters referred to in section 42 of that Code; and

(ii) the arrest of a person without a warrant or without an order of a Magistrate.

(2) Every offence under this Act shall be bailable and non-compoundable.”

8. *Amendment of section 9.*—In section 9 of the principal Act, sub-section (2) shall be renumbered as sub-section (3) thereof, and before sub-section (3) as so renumbered, the following sub-section shall be inserted, namely:—

“(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(1) the form and manner in which, and the person by whom, any list of presents referred to in sub-section (2) of section 3 shall be maintained and all other matters connected therewith; and

(b) the better co-ordination of policy and action with respect to the administration of this Act”.

Assented to on 11th September, 1984

THE BANKING LAWS (AMENDMENT) ACT, 1984

(Act No. 64 of 1984)

AN

ACT

Further to amend the State Bank of India Act, 1955, the State Bank of India (Subsidiary Banks) Act, 1959, Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 and the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980.

BE it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Banking Laws (Amendment) Act, 1984.

2. *Insertion of new section 43A in Act 23 of 1955.*—In the State Bank of India Act, 1955, after section 43, the following section shall be inserted, namely:—

“43A. *Bonus.*—(1) No officer, adviser or other employee [other than an employee within the meaning of clause (13) of section 2 of the Payment of Bonus Act, 1965 (21 of 1965)], of the State Bank shall be entitled to be paid any bonus.

(2) No employee of the State Bank, being an employee within the meaning of clause (13) of section 2 of the Payment of Bonus Act, 1965 (21 of 1965) shall be entitled to be paid any bonus except in accordance with the provisions of that Act.

(3) The provisions of this section shall have effect notwithstanding any judgment, decree or order of any court, tribunal or other authority and notwithstanding anything contained in any other provision of this Act, or in the Industrial Disputes Act, 1947 (14 of 1947), or any other law for the time being in force or any practice, usage or custom or any contract, agreement, settlement, award or other instrument.”

3. *Insertion of new section 50A in Act 38 of 1959.*—In the State Bank of India (Subsidiary Banks) Act, 1959, after section 50, the following section shall be inserted, namely:—

“50A. *Bonus.*—(1) No officer, adviser or other employee [other than an employee within the meaning of clause (13) of section 2 of the Payment of Bonus Act, 1965 (21 of 1965)] of a subsidiary bank shall be entitled to be paid any bonus.

(2) No employee of a subsidiary bank, being an employee within the meaning of clause (13) of section 2 of the Payment of Bonus Act, 1965 (21 of 1965), shall be entitled to be paid any bonus except in accordance with the provisions of that Act.

(3) The provisions of this section shall have effect notwithstanding any judgment, decree or order of any court, tribunal or other authority and notwithstanding anything contained in any other provisions of this Act, or in the Industrial Disputes Act, 1947 (14 of 1947), or any other law for the time being in force or any practice, usage or custom or any contract, agreement, settlement, award or other instrument.”

4. *Insertion of new section 12A in Act 5 of 1970.*— In the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, after section 12, the following section shall be inserted, namely:—

“12A. *Bonus.*— (1) No officer or other employee [other than an employee within the meaning of clause (13) of section 2 of the Payment of Bonus Act, 1965 (21 of 1965)] of a corresponding new bank shall be entitled to be paid any bonus.

(2) No employee of a corresponding new bank, being an employee within the meaning of clause (13) of section 2 of the Payment of Bonus Act, 1965 (21 of 1965), shall be entitled to be paid any bonus except in accordance with the provisions of that Act.

(3) The provisions of this section shall have effect notwithstanding any judgment, decree or order of any court, tribunal or other authority and notwithstanding anything contained in any other provision of this Act or in the Industrial Disputes Act, 1947 (14 of 1947), or any other law for the time being in force or any practice usage or custom or any contract, agreement, settlement, award or other instrument.”

5. *Insertion of new section 12A in Act 40 of 1980.*— In the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980, after section 12, the following section shall be inserted, namely:—

“12A. *Bonus.*— (1) No officer or other employee [other than an employee within the meaning of clause (13) of section 2 of the Payment of Bonus Act, 1965 (21 of 1965)] of a corresponding new bank shall be entitled to be paid any bonus.

(2) No employee of a corresponding new bank, being an employee within the meaning of clause (13) of section 2 of the Payment of Bonus Act, 1965 (21 of 1965), shall be entitled to be paid any bonus except in accordance with the provisions of that Act.

(3) The provisions of this section shall have effect notwithstanding any judgment, decree or order of any court, tribunal or other authority and notwithstanding anything contained in any other provision of this Act or in the Industrial Disputes Act, 1947 (14 of 1947), or any other law for the time being in force or any practice, usage or custom or any contract, agreement, settlement, award or other instrument.”

Assented to on 14th September, 1984

THE COPYRIGHT (AMENDMENT) ACT, 1984

(Act No. 65 of 1984)

AN

ACT

further to amend the Copyright Act, 1957

BE it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Copyright (Amendment) Act, 1984.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Amendment of section 2.*— In section 2 of the Copyright Act, 1957 (14 of 1957), (hereinafter referred to as the principal Act),—

(a) in clause (f), the following *Explanation* shall be inserted at the end, namely:—

“*Explanation.*— For the purposes of this clause, “video films” shall also be deemed to be work produced by a process analogous to cinematography;”

(b) after clause (h), the following clause shall be inserted, namely:—

“(hh) “duplicating equipment” means any mechanical contrivance or device used or intended to be used for making copies of any work;”

(c) in clause (o), for the words “and compilations”, the words “, compilations and computer programmes, that is to say, programmes recorded on any disc, tape, perforated media or other information storage device, which, if fed into or located in a computer or computer based equipment, is capable of producing any information” shall be substituted;

(d) in clause (t), after the word “negative” the words “, duplicating equipment” shall be inserted.

3. *Amendment of section 51.*— In section 51 of the principal Act, in clause (b),—

(a) in sub-clause (iv), the brackets and words “(except for the private and domestic use of the importer)” shall be omitted;

(b) the following proviso shall be inserted at the end, namely:—

“Provided that nothing in sub-clause (iv) shall apply to the import of two copies of any work, other than a cinematograph film or record, for the private and domestic use of the importer.”

4. *Insertion of new Section 52A.*—After section 52 of the principal Act, the following section shall be inserted namely :—

“52A. *Particulars to be included in records and video films.*—(1) No person shall publish a record in respect of any work unless the following particulars are displayed on the record and on any container thereof, namely :—

- (a) the name and address of the person who has made the record;
- (b) the name and address of the owner of the copyright in such work; and
- (c) the year of its first publication

(2) No person shall publish a video film in respect of any work unless the following particulars are displayed in the videofilm, when exhibited, and on the video cassette or other container thereof, namely:—

- (a) if such work is cinematograph film required to be certified for exhibition under the provisions of Cinematograph Act, 1952, (37 of 1952) a copy of the certificate granted by the Board of Film Certification under section 5A of that Act in respect of such work;
- (b) the name and address of the person who has made the video film and a declaration by him that he has obtained the necessary licence or consent from the owner of the copyright in such work for making such video film; and
- (c) the name and address of the owner of the copyright in such work.”

5. *Amendment of section 63.*—In section 63 of the principal Act, for the words “shall be punishable with imprisonment which may extend to one year, or with fine, or with both”, the following shall be substituted,

“shall be punishable with imprisonment for a term which shall be not less than six months but which may extend to three years and with fine which shall not be less than fifty thousand rupees but which may extend to two lakh rupees ;

Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than six months or a fine of less than fifty thousand rupees.”

6. *Insertion of new section 63A.*—After section 63 of the principal Act, the following section shall be inserted, namely :—

“63A. *Enhanced penalty on second and subsequent convictions.*—Whoever having already been convicted of an offence under section 63 is again convicted of any such offence shall be punishable for the second and for every subsequent offence, with imprisonment for a term which shall not be less than one year but which may extend to three years and with fine which shall not be less than one lakh rupees but which may extend to two lakh rupees :

Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than one year or a fine of less than one lakh rupees :

Provided further that for the purposes of this section, no cognizance shall be taken of any conviction made before the commencement of the Copyright (Amendment) Act, 1984.”

7. *Amendment of section 64.*—In section 64 of the principal Act,—

(a) for sub-section (1), the following sub-section, shall be substituted, namely :—

“(1) Any police officer, not below the rank of a sub-inspector, may, if he is satisfied that an offence under section 63 in respect of the infringement of copyright in any work has been, is being, or is likely to be, committed, seize without warrant, all copies of the work, and all plates used for the purpose of making infringing copies of the work, wherever found, and all copies and plates so seized shall, as soon as practicable, be produced before a Magistrate.” :

(b) in sub-section (2),—

- (i) after the words “copies of a work”, the words “,or plates”, shall be inserted;
- (ii) after the words “such copies”, the words “or plates” shall be inserted.

8. *Amendment of section 65.*—In section 65 of the principal Act, for the words “one year, or with fine, or with both”, the words “two years and shall also be liable to fine” shall be substituted.

9. *Insertion of new section 68A.*—After section 68 of the principal Act, the following section shall be inserted, namely :—

“68A. *Penalty for contravention of section 52A.*—Any person who publishes a record or a video film in contravention of the provisions of section 52A shall be punishable with imprisonment which may extend to three years and shall also be liable to fine.”

10. *Amendment of Act 12 of 1974.*—In the Economic Offences (Inapplicability of Limitation) Act, 1974,—

- (a) in section 2, in clause (i), after the word “enactments”, the words “or provisions, if any, thereof” shall be inserted;
- (b) in the Schedule after entry 1 relating to the Indian Income-tax Act, 1922 (11 of 1922) the following entry shall be inserted, namely :—

“1A. Clause (a) of section 63 of the Copyright Act, 1957 (14 of 1957).”

Assented to on 14th September, 1984

THE FAMILY COURTS ACT, 1984
(Act No 66 of 1984)

AN

ACT

to provide for the establishment of Family Courts with a view to promote conciliation in, and secure speedy settlement of, disputes relating to marriage and family affairs and for matters connected therewith.

Be it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. *Short title, extent and commencement.*—(1) This Act may be called the Family Courts Act, 1984.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different States.
2. *Definitions.*—In this Act, unless the context otherwise requires,—
 - (a) “Judge” means the Judge or, as the case may be, the Principal Judge, Additional Principal Judge or other Judge of a Family Court;
 - (b) “notification” means a notification published in the Official Gazette;
 - (c) “prescribed” means prescribed by rules made under this Act;
 - (d) “Family Court” means a Family Court established under section 3;
 - (e) all other words and expressions used but not defined in this Act and defined in the Code of Civil Procedure, 1908 (5 of 1908) shall have the meanings respectively assigned to them in that Code.

CHAPTER II

FAMILY COURTS

3. *Establishment of Family Courts.*—(1) For the purpose of exercising the jurisdiction and powers conferred on a Family Court by this Act, the State Government, after consultation with the High Court, and by notification;—

(a) shall, as soon as may be after the commencement of this Act, establish for every area in the State comprising a city or town whose population exceeds one million, a Family Court;

(b) may establish Family Courts for such other areas in the State as it may deem necessary.

(2) The State Government shall, after consultation with the High Court, specify, by notification, the local limits of the area to which the jurisdiction of a Family Court shall extend and may, at any time, increase, reduce or alter such limits.

4. *Appointment of Judges.*—(1) The State Government may, with the concurrence of the High Court, appoint one or more persons to be Judge or Judges of a Family Court.

(2) When a Family Court consists of more than one Judge;—

(a) each of the Judges may exercise all or any of the powers conferred on the Court by this Act or any other law for the time being in force;

(b) the State Government may, with the concurrence of the High Court, appoint any of the Judges to be the Principal Judge and any other Judge to be the Additional Principal Judge,

(c) the Principal Judge may, from time to time make such arrangements as he may deem fit for the distribution of the business of the Court among the various Judges thereof;

(d) the Additional Principal Judge may exercise the powers of the Principal Judge in the event of any vacancy in the office of the Principal Judge or when the Principal Judge is unable to discharge his functions owing to absence, illness or any other cause.

(3) A person shall not be qualified for appointment as a Judge unless he:—

(a) has for at least seven years held a judicial office in India or the office of a member of a tribunal or any post under the Union or a State requiring special knowledge of law; or

(b) has for at least seven years been an advocate of a High Court or of two or more such Courts in succession; or

(c) possesses such other qualifications as the Central Government may, with the concurrence of the Chief Justice of India, prescribe;

(4) In selecting persons for appointment as Judges,—

(a) every endeavour shall be made to ensure that persons committed to the need to protect and preserve the institution of marriage and to promote the welfare of children and qualified by reason of their experience and expertise to promote the settlement of disputes by conciliation and counselling are selected; and

(b) preference shall be given to women.

(5) No person shall be appointed as, or hold the office of, a Judge of a Family Court after he has attained the age of sixty-two years.

(6) The salary or honorarium and other allowances payable to, and the other terms and conditions of service of, a Judge shall be such as the State Government may, in consultation with the High Court, prescribe.

2. *Association of social Welfare agencies, etc.*—The State Government may in consultation with the High Court provide, by rules, for the association, in such manner and for such purposes and subject to such conditions as may be specified in the rules, with a Family Court of—

(a) institutions or organisations engaged in social welfare or the representatives thereof;

(b) persons professionally engaged in promoting the welfare of the family;

(c) persons working in the field of social welfare ; and

(d) any other person whose association with a Family Court would enable it to exercise its jurisdiction more effectively in accordance with the purposes of this Act.

6. *Counsellors, officers and other employees of Family Courts.*—(1) The State Government shall, in consultation with the High Court, determine the number and categories of counsellors, officers and other employees required to assist a Family Court in the discharge of its functions and provide the Family Court with such counsellors, officers and other employees as it may think fit.

(2) The terms and conditions of associations of the counsellors and the terms and conditions of service of the officers and other employees, referred to in sub-section (1), shall be such as may be specified by rules made by the State Government.

CHAPTER III

JURISDICTION

7. *Jurisdiction.*—(1) Subject to the other provisions of this Act, a Family Court shall—

(a) have and exercise all the jurisdiction exercisable by any district court or any subordinate civil court under any law for the time being in force in respect of suits and proceedings of the nature referred to in the *Explanation* ; and

(b) be deemed, for the purposes of exercising such jurisdiction under such law, to be a district court or, as the case may be, such subordinate civil court for the area to which the jurisdiction of the Family Court extends.

Explanation.—The suits and proceedings referred to in this sub-section are suits and proceedings of the following nature, namely:—

(a) a suit or proceeding between the parties to a marriage for a decree of nullity of marriage (declaring the marriage to be null and void or, as the case may be, annulling the marriage) or restitution of conjugal rights or judicial separation or dissolution of marriage ;

(b) a suit or proceeding for a declaration as to the validity of a marriage or as to the matrimonial status of any person ;

(c) a suit or proceeding between the parties to marriage with respect to the property of the parties or of either of them ;

(d) a suit or proceeding for an order or injunction in circumstances arising out of a marital relationship ;

(e) a suit or proceeding for a declaration as to the legitimacy of any person ;

(f) a suit or proceeding for maintenance ;

(g) a suit or proceeding in relation to the guardianship of the person or the custody of, or access to, any minor.

(2) Subject to the other provisions of this Act, a Family Court shall also have and exercise:—

(a) the jurisdiction exercisable by a Magistrate of the first class under Chapter IX (relating to order for maintenance of wife, children and parents) of the Code of Criminal Procedure, 1973 (2 of 1974); and

(b) such other jurisdiction as may be conferred on it by any other enactment.

8. *Exclusion of jurisdiction and pending proceedings.*—Where a Family Court has been established for any area,—

(a) no district court or any subordinate civil court referred to in sub-section (1) of section 7 shall, in relation to such area, have or exercise any jurisdiction in respect of any suit or proceeding of the nature referred to in the *Explanation* to that sub-section ;

(b) no magistrate, shall in relation to such area, have or exercise any jurisdiction or powers under Chapter IX of the Code of Criminal Procedure, 1973 (2 of 1974);

(c) every suit or proceeding of the nature referred to in the Explanation to sub-section (1) of section 7 and every proceeding under Chapter IX of the Code of Criminal Procedure, 1973 (2 of 1974),—

(i) which is pending immediately before the establishment of such Family Court before any district court or subordinate court referred to in that sub-section or, as the case may be, before any magistrate under the said Code; and

(ii) which would have been required to be instituted or taken before or by such Family Court if, before the date on which such suit or proceeding was instituted or taken, this Act had come into force such Family Court had been established,

shall stand transferred to such Family Court on the date on which it is established.

CHAPTER IV

PROCEDURE

9. *Duty of Family Court to make efforts for settlement.* (1) In every suit or proceeding, endeavour shall be made by the Family Court in the first instance, where it is possible to do so consistent with the nature and circumstances of the case, to assist and persuade the parties in arriving at a settlement in respect of the subject-matter of the suit or proceeding and for this purpose a Family Court may, subject to any rules made by the High Court, follow such procedure as it may deem fit.

(2) If, in any suit or proceeding, at any stage, it appears to the Family Court that there is a reasonable possibility of a settlement between the parties, the Family Court may adjourn the proceedings for such period as it thinks fit to enable attempts to be made to effect such a settlement.

(3) The power conferred by sub-section (2) shall be in addition to, and not in derogation of, any other power of the Family Court to adjourn the proceedings.

10. *Procedure generally.*—(1) Subject to the other provisions this Act and the rules, the provisions of the Code of Civil Procedure, 1908 (5 of 1908) and of any other law for the time being in force shall apply to the suits and proceedings (other than the proceedings under Chapter IX of the Code of Criminal Procedure, 1973 (2 of 1974)) before a Family Court and for the purposes of the said provisions of the Code, a Family Court shall be deemed to be a civil court and shall have all the powers of such court.

(2) Subject to the other provisions of this Act and the rules, the provisions of the Code of Criminal Procedure, 1973 (2 of 1974), or the rules made thereunder, shall apply to the proceedings under Chapter IV of that Code before a Family Court.

(3) Nothing in sub-section (1) or sub-section (2) shall prevent a Family Court from laying its own procedure with a view to arrive at a settlement in respect of the subject-matter of the suit or proceedings or at the truth of the facts alleged by the one Party and denied by the other.

11. *Proceedings to be held in camera.*—In every suit or proceedings to which this Act applies, the proceedings may be held in camera if the Family Court so desires and shall be so held if either party so desires.

12. *Assistance of medical and welfare experts.*—In every suit or proceedings, it shall be open to a Family Court to secure the services of a medical expert or such person (preferably a woman where available), whether related to the parties or not, including a person professionally engaged in promoting the welfare of the family as the Court may think fit, for the purposes of assisting the Family Court in discharging the functions imposed by this Act.

13. *Right to legal representation.*—Notwithstanding anything contained in any law, no party to a suit or proceeding before a Family Court shall be entitled, as of right, to be represented by a legal practitioner:

Provided that if the Family Court considers it necessary in the interest of justice, it may seek the assistance of a legal expert as *amicus curiae*.

14. *Application of Indian Evidence Act, 1872.*—A Family Court may receive as evidence any report, statement, documents, information or matter that may, in its opinion, assist it to deal effectually with a dispute, whether or not the same would be otherwise relevant or admissible under the Indian Evidence Act, 1872 (1 of 1872).

15. *Record of oral evidence.*—In suits or proceedings before a Family Court, it shall not be necessary to record the evidence of witnesses at length, but the Judge, as the examination of each witness proceeds, shall, record or cause to be recorded, a memorandum of the substance of what the witness deposes, and such memorandum shall be signed by the witness and the Judge and shall form part of the record.

16. *Evidence of formal character on affidavit.*—(1) The evidence of any person where such evidence is of a formal character, may be given by affidavit and may, subject to all just exceptions, be read in evidence in any suit or proceeding before a Family Court.

(2) The Family Court may, if it thinks fit, and shall, on the application of any of the parties to the suit or proceeding summon and examine any such person as to the facts contained in his affidavit.

17. *Judgement.*—Judgement of a Family Court shall contain a concise statement of the case, the point for determination, the decision thereon and the reasons for such decision.

18. *Execution of decrees and orders.*—(1) A decree or an order (other than an order under Chapter IX of the Code of Criminal Procedure, 1973), passed by a Family Court shall have the same force and effect as a decree or order of a civil

court and shall be executed in the same manner as is prescribed by the Code of Civil Procedure, 1908 for the execution of decrees and orders.

(2) An order passed by a Family Court under Chapter IX of the Code of Criminal Procedure, 1972 (2 of 1974); shall be executed in the manner prescribed for the execution of such order by that Code.

(3) A decree or order may be executed either by the Family Court which passed it or by the other Family Court or ordinary civil court to which it is sent for execution.

CHAPTER V

APPEAL

19. *Appeal.*—(1) Save as provided in sub-section (2) and notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908), or in the Code of Criminal Procedure, 1973 (2 of 1974), or in any other law, an appeal shall lie from every judgement or order, not being an interlocutory order, of a Family Court to the High Court both on facts and on law.

(2) No appeal shall lie from a decree or order passed by the Family Court with the consent of the parties.

(3) Every appeal under this section shall be preferred within a period of thirty days from the date of the judgement or order of a Family Court.

(4) Except as aforesaid, no appeal or revision shall lie to any court from any judgement, order or decree of a Family Court.

(5) An appeal preferred under sub-section (1) shall be heard by a Bench consisting of two or more judges.

CHAPTER VI

MISCELLANEOUS

20. *Act to have overriding effect.*—The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

21. *Power of High Court to make rules.*—(1) The High Court may, by notification in the Official Gazette, make such rules as it may deem necessary for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:

(a) normal working hours of Family Courts and holding of sittings of Family Courts on holidays and outside normal working hours;

(b) holding of sittings of Family Courts, at places other than their ordinary places of sitting;

(c) efforts which may be made by, and the procedure which may be followed by, a Family Court for assisting and persuading parties to arrive at a settlement.

22. *Power of the Central Government to make rules.*—(1) The Central Government may, with the concurrence of the Chief Justice of India, by notification, make rules prescribing the other qualifications for appointment of a Judge referred to in clause (c) of sub-section (3) of section 4.

(2) Every rule made under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both House agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

23. *Power of the State Government to make rules.*—(1) State Government may, after consultation with the High Court, by notification, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the provisions of sub-section (1), such rules may provide for all or any of the following matters, namely:—

(a) the salary or honorarium and other allowances payable to, and the other terms and conditions of Judges under sub-section (6) of section 4;

(b) the terms and conditions of association of counsellors and the terms and conditions of service of the officers and other employees referred to in section 6;

(c) payment of fees and expenses (including travelling expenses) of medical and other experts and other persons referred to in section 12 out of the revenues of the State Government and the scales of such fees and expenses;

(d) payment of fees and expenses to legal practitioners appointed under section 13 as *amicus curiae* out of the revenues of the State Government and the scales of such fees and expenses;

(e) any other matter which is required to be, or may be, prescribed or provided for by rules.

(3) Every rule made by a State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.

Assented to on 14th September, 1984.

THE TAXATION LAWS (AMENDMENT) ACT, 1984
(Act No. 18 of 1984)

AN
ACT

further to amend the Income-tax Act, 1961, the Wealth-tax Act, 1957, the Gift-tax Act, 1958, the Companies (Profits) Surtax Act, 1964, the Compulsory Deposit Scheme (Income-tax Payers) Act, 1974 and the Interest-tax Act, 1974.

Be it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. *Short title and commencement.*—(1) This Act may be called the Taxation Laws (Amendment) Act, 1984.

(2) Section 84 of this Act shall come into force on the 1st day of October, 1984, and save as and otherwise provided the remaining provisions of this Act shall come into force on the 1st day of April, 1985.

CHAPTER II

AMENDMENTS TO THE INCOME-TAX ACT, 1961

2. *Amendment of section 2.*—In section 2 of the Income-tax Act, 1961 (43 of 1961) (hereafter in this Chapter referred to as the Income-tax Act), for clause (47), the following clause shall be substituted, namely:—

“(47) transfer”, in relation to a capital asset, includes,—

- (i) the sale exchange or relinquishment of the asset; or
- (ii) the extinguishment of any rights therein; or
- (iii) the compulsory acquisition thereof under any law; or
- (iv) in a case where the asset is converted by the owner thereof into, or is treated by him as, stock-in-trade of a business carried on by him, such conversion or treatment;”

3. *Amendment of section 9.*—In section 9 of the Income-tax Act, in sub-section (1), in the *Explanation* to clause (i), after clause (c), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1982, namely:—

“(d) in the case of a non-resident, being—

- (1) an individual who is not a citizen of India; or
- (2) a firm which does not have any partner who is a citizen of India or who is resident in India; or
- (3) a company which does not have any shareholder who is a citizen of India or who is resident in India,

no income shall be deemed to accrue or arise in India to such individual, firm or company through or from operations which are confined to the shooting of any cinematograph film in India;”

4. *Amendment of section 10.*—In section 10 of the Income-Tax Act,—

(a) after clause (5), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1982, namely:—

“(5A) in the case of an individual who is not a citizen of India and is a non-resident, who comes to India solely in connection with the shooting of a cinematograph film in India by the individual firm or company referred to in clause (d) of the *Explanation* to clause (i) of sub-section (1) of section 9, any remuneration received by him for rendering any service in connection with such shooting;”;

(b) in clause (10AA) for the words “on superannuation,” wherever they occur, the words “whether on superannuation,” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1978;

(c) in clause (13A), the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1976, namely:—

“*Explanation.*—For the removal of doubt, it is hereby declared that nothing contained in this clause shall apply in a case where—

- (a) the residential accommodation occupied by the assessee is owned by him; or
- (b) the assessee has not actually incurred expenditure on payment of rent (by whatever name called) in respect of the residential accommodation occupied by him;”

5. *Amendment of section 13.*—In section 13 of the Income-tax Act, in sub-section (3), in clause (b), for the words “five thousand rupees”, the words “twenty-five thousand rupees” shall be substituted.

6. *Amendment of Section 16.*—In section 16 of the Income-tax Act, in clause (i), after the proviso, the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1975, namely:—

“*Explanation.*—For the removal of doubts, it is hereby declared that where, in the case of an assessee, salary is due from, or paid or allowed by, more than one employer, the deduction under this clause shall be computed with reference to the aggregate salary due, paid or allowed to the assessee and shall in no case exceed the amount specified under this clause.”

7. Amendment of section 17.—In section 17 of the Income-tax Act,—

- (i) in clause (I), after sub-clause (v), the following sub-clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1978, namely:—

“(va) any payment received by an employee in respect of any period of leave not availed of by him;” ;

- (ii) in clause (2),—

- (a) in sub-clause (iv), the word “and” shall be omitted;
(b) in sub-clause (v), the word “and” shall be inserted at the end ;
(c) after sub-clause (v), the following sub-clause shall be inserted, namely:—

(vi) where the employer has advanced any loan to the employee for the purpose of building a house or purchasing a site or a house and a site or for purchasing a motor car, and either no interest is charged by the employer on the amount of such loan or interest is charged at a rate lower than the rate or interest which the Central Government may, having regard to the rate of interest charged by it from its employees on loans for such purpose granted to them, specify in this behalf by notification in the Official Gazette, an amount equal to,—

- (a) in a case where such loan is advanced without charging any interest, the interest calculated in the prescribed manner on such loan at the rate so specified;
(b) in a case where such loan is advanced by charging interest at a rate lower than the rate so specified, the difference between the interest calculated in the prescribed manner on such loan at the rate so specified and the interest charged by the employer :

Provided that this sub-clause shall not apply in the case of—

- (1) an employee of the Central Government or any State Government ; or
(2) an employee, not being an employee referred to in paragraph (a) or paragraph (b) of sub-clause (iii), whose income under the head “Salaries” exclusive of the value of all benefits or amenities not provided for by way of monetary payment, does not exceed eighteen thousand rupees;”.

8. Amendment of section 23.—In section 23 of the Income-tax Act, in sub-section (1),—

- (a) for the first proviso, the following proviso shall be substituted, namely:—

“Provided that where the property is in the occupation of a tenant, the taxes levied by any local authority in respect of the property shall, to the extent such taxes are borne by the owner, be deducted (irrespective of the previous year in which the liability to pay such taxes was incurred by the owner according to the method of accounting regularly employed by him) in determining the annual value of the property of that previous year in which such taxes are actually paid by him;”;

- (b) in the second proviso, the words, brackets and letters “so, however, that the income in respect of any residential unit referred to in clause (a) or clause (b) or clause (c) or clause (d) is in no case a loss” shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1984 ;

- (c) the Explanation shall be numbered as Explanation 1 and after Explanation 1 as so numbered, the following Explanation shall be inserted, namely:—

“Explanation 2.—For the removal of doubts, it is hereby declared that where a deduction in respect of any taxes referred to in the first proviso to this sub-section is allowed in determining the annual value of the property in respect of any previous year (being a previous year relevant to the assessment year commencing on the 1st day of April, 1984 or any earlier assessment year), no deduction shall be allowed under the first proviso in determining the annual value of the property in respect of the previous year in which such taxes are actually paid by the owner.”.

9. Insertion of new section 25A.—After section 25 of the Income-tax Act, the following section shall be inserted, namely:—

“25A. *Special provision for cases where unrealised rent allowed as deduction is realised subsequently.*—Where a deduction has been made under clause (i) of sub-section (1) of section 24 in the assessment for any year in respect of rent from property let to a tenant which the assessee cannot realise and subsequently during any previous year the assessee has realised any amount in respect of such rent, the amount so realised shall be deemed to be income chargeable under the head “Income from house property” and accordingly charged to income tax (without making any deduction under section 23 or section 24) as the income of that previous year, whether the assessee is the owner of that property in that year or not”.

10. Amendment of section 40.—In section 40 of the Income-tax Act, after clause (b), the following Explanations shall be inserted, namely:—

“Explanation 1.—Where interest is paid by a firm to any partner of the firm who has also paid interest to the firm, the amount of interest to be disallowed under this clause shall be limited to the amount by which the payment of interest by the firm to the partner exceeds the payment of interest by the partner to the firm.

“Explanation 2.—Where an individual is a partner in a firm on behalf, or for the benefit, of any other person (such partner and the other person being hereinafter referred to as “partner in a representative capacity” and “person so represented” respectively),—

- (i) interest paid by the firm to such individual or by such individual to the firm, otherwise than as partner in a representative capacity, shall not be taken into account for the purposes of this clause;
(ii) interest paid by the firm to such individual or by such individual to the firm as partner in a representative capacity and interest paid by the firm to the person so represented or by the person so represented to the firm, shall be taken into account for the purposes of this clause.

Explanation 3.— Where an individual is a partner in a firm, otherwise than as partner in a representative capacity, interest paid by the firm to such individual shall not be taken into account for the purposes of this clause, if such interest is received by him on behalf, or for the benefit, of any other person.

11. Amendment of section 40 A.— In section 40 A of the Income-tax Act, in sub-section (5), in clause (b) of Explanation 2,—

- (a) in sub-clause (iv), the word “and” shall be omitted ;
- (b) in sub-clause (v), for the words “an annuity”, the words “an annuity; and” shall be substituted ;
- (c) after sub-clause (v), the following clause shall be inserted, namely,—

“(vi) the amount treated as a perquisite under sub-clause (vi) of clause (2) of section 17.”

12. Amendment of section 45.— In section 45 of the Income-tax Act, after sub-section (1), the following sub-section shall be inserted, namely,—

- “(2) Notwithstanding anything contained in sub-section (1), the profits or gains arising from the transfer by way of conversion by the owner of a capital asset into, or its treatment by him as, stock-in-trade of a business carried on by him shall be chargeable to income-tax as his income of the previous year in which such stock-in-trade is sold or otherwise transferred by him and for the purposes of section 48, the fair market value of the asset on the date of such conversion or treatment shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of the capital asset”.

13. Insertion of new section 47 A.— After section 47 of the Income-tax Act, the following section shall be inserted, namely:—

‘47A. Withdrawal of exemption in certain cases.— Where at any time before the expiry of a period of eight years from the date of the transfer of a capital asset referred to in clause (iv) or, as the case may be, clause (v) of section 47,—

- (i) such capital asset is converted by the transferee company into, or is treated by it as, stock-in-trade of its business; or
- (ii) the parent company or its nominees or, as the case may be, the holding company ceases or cease to hold the whole of the share capital of the subsidiary company,

the amount of profits or gains arising from the transfer of such capital asset not charged under section 45 by virtue of the provisions contained in clause (iv) or, as the case may be, clause (v) of section 47 shall, notwithstanding anything contained in the said clauses, be deemed to be income chargeable under the head “Capital gains” of the previous year in which such transfer took place.”

14. Amendment of section 49.— In section 49 of the Income-tax Act, after sub-section (2), the following sub-section shall be inserted, namely:—

- (3) Notwithstanding anything contained in sub-section (1), where the capital gain arising from the transfer of a capital asset referred to in clause (iv), or, as the case may be, clause (v) of section 47 is deemed to be income chargeable under the head “Capital gains” by virtue of the provisions contained in section 47A, the cost of acquisition of such asset to the transferee company shall be the cost for which such asset was acquired by it.”

15. Substitution of new section or section 53.— For section 53 of the Income-tax Act, the following section shall be substituted, namely:—

53. Exemption of capital gains from a residential house.— Notwithstanding anything contained in section 45, where in the case of an assessee being an individual the capital gain arises from the transfer of a capital asset (other than a short-term capital asset), being buildings or lands appurtenant thereto, and being a residential house, the income of which is chargeable under the head “Income from house property”, the capital gain arising from such transfer shall be dealt with in accordance with the following provisions of this section, that is to say,—

- (a) in a case where the full value of the consideration received or accruing as a result of the transfer of such capital asset does not exceed two hundred thousand rupees, the whole of the capital gain shall not be charged under section 45 ;
- (b) in a case where the full value of such consideration exceeds two hundred thousand rupees, so much of the capital gain as bears to the whole of the capital gain the same proportion as the amount of two hundred thousand rupees bears to such consideration shall not be charged under section 45 :

Provided that nothing contained in this section shall apply to a case where the assessee owns on the date of such transfer any other residential house.”

16. Amendment of section 54E.— In section 54E of the Income-tax Act, in sub-section (1), after the proviso and before Explanation 1, the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1984, namely:—

“Provided further that in a case where the transfer of the original asset is by way of compulsory acquisition under any law and the full amount of compensation awarded for such acquisition is not received by the assessee on the date of such transfer, the period of six months referred to in this sub-section shall, in relation to so much of such compensation as is not received on the date of the transfer, be reckoned from the date immediately following the date on which such compensation is received by the assessee.”

17. Amendment of section 64.— In section 64 of the Income-tax Act, in sub-section (1),—

- (a) in clause (vi), the word “and” shall be omitted ;
- (b) in clause (vii), for the words “or both,” the words “the both; and” shall be substituted;

(c) after clause (vii), the following clause shall be inserted, namely:—

“(viii) to any person or association of persons from assets transferred directly or indirectly on or after the 1st day of June, 1973, otherwise than for adequate consideration, to the person or association of persons by such individual, to the extent to which the income from such assets is for the immediate or deferred benefit of his son's wife or son's minor child or both.”

18. *Amendment of section 80.*—In section 80 of the Income-tax Act, for the words and figures “under section 139”, the words, brackets and figures “within the time allowed under sub-section (1) of section 139 or within such further time as may be allowed by the Income-tax Officer” shall be substituted.

19. *Amendment of section 80C.*—In section 80C of the Income-tax Act, in sub-section (2),—

- (i) in clause (g), for the words “consisting only of”, the words “consisting, in either case, only of” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1971 ;
- (ii) in clause (h), for the words “or an association of persons or a body of individuals consisting only of”, the words “or, where the assessee is an association of persons or a body of individuals consisting, in either case, only of” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1983.

20. *Amendment of section 80CC.*—In section 80CC of the Income-tax Act, in sub-section (1), in clause (c), for the words “consisting only of”, the words “consisting, in either case, only of” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1978.

21. *Amendment of section 80L.*—In section 80L of the Income-tax Act,—

- (a) in sub-section (1), in clause (c), for the words “consisting only of”, the words “consisting, in either case, only of” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1972 ;
- (b) after sub-section (2), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1976, namely:—

“(3) For the removal of doubts, it is hereby declared that where the income referred to in sub-section (1) is derived from any asset held by, or on behalf of, a firm, an association of persons or a body of individual, no deduction shall be allowed under the said sub-section in respect of such income in computing the total incomes of any partner of the firm or any member of the association or body.”

22. *Amendment of section 130.*—In section 130 of the Income tax Act, in sub-section (2), for the word and figures “sections 253”, the word and figures “sections 132, 253” shall be substituted with effect from the 1st day of October, 1984.

23. *Amendment of section 132.*—In section 132 of the Income-tax Act, with effect from the 1st day of October 1984,—

- (a) in sub-section (5), for the words “ninety days”, the words “one hundred and twenty days” shall be substituted ;
- (b) in sub-section (11), for the words and brackets “such authority, as may be notified in this behalf by the Central Government in the Official Gazette (hereafter in this section referred to as the notified authority)”, the words “the Commissioner” shall be substituted ;
- (c) after sub-section (11), the following sub-section shall be inserted, namely:—

“(11A) Every application referred to in sub-section (11) which is pending immediately before the 1st day of October, 1984, before an authority notified under that sub-section as it stood immediately before that day shall stand transferred on that day to the Commissioner, and the Commissioner may proceed with such application from the stage at which it was on that day :

Provided that the applicant may demand that before proceeding further with the application, he be re-heard.”;

(d) in sub-section (12),—

- (i) for the words “the notified authority”, the words “the Commissioner” shall be substituted ;
- (ii) for the words “as it thinks fit”, the words “as it or he thinks fit” shall be substituted ;

(e) in *Explanation 1*, for the words “ninety days”, the words “one hundred and twenty days” shall be substituted.

24. *Amendment of section 132B, 139, 201, 213 to 217, 220, 243, 244 and 269K and Second Schedule.*—In section 132B, section 139, section 201, sections 213 to 217, section 220, section 243, section 244 and section 269K of the Income-tax Act and in rule 60 of the Second Schedule to that Act, for the words “twelve per cent”, wherever they occur, the words “fifteen per cent.” shall be substituted with effect from the 1st day of October, 1984.

25. *Amendment of section 139.*—In section 139 of the Income-tax Act,—

(a) in sub-section (1A),—

(i) for clause (b), the following clause shall be substituted, namely:—

“(b) his income or the income of such other person under the head “Salaries”, exclusive of the value of all benefits or amenities not provided for by way of monetary payment, does not exceed eighteen thousand rupees;” ;

(ii) the *Explanation* shall be omitted ;

(b) in sub-section (8),—

(i) in clause (a), for *Explanation 2*, the following *Explanation* shall be substituted, namely:—

Explanation 2.—Where, in relation to an assessment year, an assessment is made for the first time under section 147, the assessment so made shall be regarded as a regular assessment for the purposes of this sub-section.”;

(ii) for clause (b), the following clause shall be substituted, namely:—

“(b) Where as a result of an order under section 147 or section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264, the amount of tax on which interest was payable under this sub-section has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly, and—

(i) in a case where the interest is increased, the Income-tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be a notice under section 156 and the provisions of this Act shall apply accordingly;

(ii) in a case where the interest is reduced, the excess interest paid, if any, shall be refunded.”.

26. Amendment of section 144B.—In section 144B of the Income-tax Act, in sub-section (1), for the words “the Income-tax Officer proposes to make any variation”, the words, figures and letters “the Income-tax Officer proposes to make, before the 1st day of October, 1984, any variation” shall be substituted with effect from the 1st day of October, 1984.

27. Amendment of section 146.—In section 146 of the Income-tax Act, in sub-section (1) after the words and figures “under section 144”, the words, figures and letters “before the 1st day of October, 1984” shall be inserted with effect from the 1st day of October, 1984.

28. Amendment of section 153.—In section 153 of the Income-tax Act, with effect from the 1st day of October, 1984—

(a) in sub-section (1),—

(i) in clause (c), for the word and figures “section 139,” the words and figures “section 139 ; or” shall be substituted ;

(ii) after clause (c), the following clause shall be inserted, namely:—

“(d) the expiry of six months from the end of the month in which an application under clause (a) of sub-section (2) of section 143 is made by the assessee,”;

(b) in *Explanation 1* below sub-section (3), after clause (iv), the following clause shall be inserted, namely:—

“(iva) the period (not exceeding sixty days) commencing from the date on which the Income-tax Officer received the declaration under sub-section (1) of section 158A and ending with the date on which the order under sub-section (3) of that section is made by him, or”.

29. Amendment of section 154.—In section 154 of the Income-tax Act, with effect from the 1st day of October, 1984,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) With a view to rectifying any mistake apparent from the record, an income-tax authority referred to in section 116 may amend any order passed by it under the provisions of this Act.”;

(b) in sub-section (7), for the words “from the date of the order sought to be amended” the words “from the end of the financial year in which the order sought to be amended was passed” shall be substituted.

30. Amendment of section 155.—In section 155 of the Income-tax Act,—

(a) in sub-section (1), with effect from the 1st day of October, 1984,—

(i) in clause (b), after the word and figures “section 264,” the word “or” shall be inserted ;

(ii) after clause (b), the following clause shall be inserted, namely:—

“(c) on any order passed under sub-section (4) of section 245D on the application made by the firm,” ;

(iii) for the words “from the date of the final order passed” the words “from the end of the financial year in which the final order was passed” shall be substituted ;

(b) in sub-section (2), with effect from the 1st day of October, 1984,—

(i) in clause (b), after the word and figures “section 264,” the word “or” be inserted ;

(ii) after clause (b), the following clause shall be inserted, namely:—

“(c) on any order passed under sub-section (4) of section 245D on the application made by the association or body.”;

(iii) for the words “from the date of the final order passed”, the words “from the end of the financial year in which the final order was passed” shall be substituted ;

- (c) in sub-section (4), for the words "from the date of the order passed", the words "from the end of the financial year in which the order was passed" shall be substituted with effect from the 1st day of October, 1984 ;
- (d) in sub-section (7), for the words "from the date of the final order passed", the words "from the end of the financial year in which the final order was passed" shall be substituted with effect from the 1st day of October, 1984 ;
- (e) after sub-section (7A), the following sub-section shall be inserted, namely:—

(7B) Where in the assessment for any year, the capital gain arising from the transfer of a capital asset is not charged under section 45 by virtue of provisions of clause (iv) or, as the case may be, clause (v) of section 47, but is deemed under section 47A to be income chargeable under the head "Capital gains" of the previous year in which the transfer took place by reason of—

- (i) such capital asset being converted by transferee company into, or being treated by it as, stock-in-trade of its business ; or
- (ii) the parent company or its nominees or, as the case may be, the holding company ceasing to hold the whole of the share capital of the subsidiary company,

at any time before the expiry of the period of eight years from the date of such transfer, the Income-tax Officer may, notwithstanding anything contained in this Act, re-compute the total income of the transferor company for the relevant previous year and make the necessary amendment ; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the previous year in which the capital asset was so converted or treated or in which the parent company or its nominees or, as the case may be, the holding company ceased to hold the whole of the share capital of the subsidiary company .;

- (f) in sub-section (8), for the words "reckoned from the date of the assessment", the words "reckoned from the end of the financial year in which the assessment was made" shall be substituted with effect from the 1st day of October, 1984 ;
- (g) in sub-section (9), for the words "reckoned from the date of the assessment", the words "reckoned from the end of the financial year in which the assessment was made" shall be substituted with effect from the 1st day of October, 1984 ;
- (h) in clause (a) of sub-section (10), for the words "reckoned from the date of the assessment", the words "reckoned from the end of the financial year in which the assessment was made" shall be substituted with effect from the 1st day of October, 1984 ;
- (i) in sub-section (10A), for the words "reckoned from the date of the assessment", the words "reckoned from the end of the financial year in which the assessment was made" shall be substituted with effect from the 1st day of October, 1984 ;
- (j) in sub-section (10C), for the words "reckoned from the date of the assessment", the words "reckoned from the end of the financial year in which the assessment was made" shall be substituted with effect from the 1st day of October, 1984.

31. *Insertion of new Chapter XIVA.*—In the Income-Tax Act, after Chapter XIV, the following Chapter shall be inserted with effect from the 1st day of October, 1984, namely :—

CHAPTER XIV A

SPECIAL PROVISION FOR AVOIDING REPETITIVE APPEALS

158A. *Procedure when assessee claims identical question of law is pending before High Court or Supreme Court.*—Notwithstanding anything contained in this Act, where an assessee claims that any question of law arising in his case for an assessment year which is pending before the Income Tax Officer or any appellate authority (such case being hereinafter in this section referred to as the relevant case) is identical with a question of law arising in his case for another assessment year which is pending before the High Court on a reference under section 256 or before the Supreme Court on a reference under section 257 or in appeal under section 261 (such case being hereinafter in this section referred to as the other case), he may furnish to the Income-tax Officer or the appellate authority, as the case may be, a declaration in the prescribed form and verified in the prescribed manner, that if the Income-Tax Officer or the appellate authority, as the case may be, agrees to apply to the relevant case the final decision on the question of law in the other case he shall not raise such question of law in the relevant case in appeal before any appellate authority or for a reference before the High Court under section 256 or the Supreme Court under section 257 or in appeal before the Supreme Court under section 261.

(2) Where a declaration under sub-section (1) is furnished to any appellate authority, the appellate authority shall call for a report from the Income Tax officer on the correctness of the claim made by the assessee and where the Income Tax Officer makes a request to the appellate authority to give him an opportunity of being heard in the matter, the appellate authority shall allow him such opportunity.

(3) The Income-Tax Officer or the appellate authority, as the case may be, may, by order in writing, —

- (i) admit the claim of the assessee if he or it is satisfied that the question of law arising in the relevant case is identical with the question of law in the other case ; or
- (ii) reject the claim if he or it is not so satisfied.

(4) Where a claim is admitted under sub-section (3), —

- (a) the Income Tax Officer or, as the case may be, the appellate authority may make an order disposing of the relevant case without awaiting the final decision of the question of law in the other case ; and

(b) the assessee shall not be entitled to raise, in relation to the relevant case, such question of law in appeal before any appellate authority or for a reference before the High Court under section 256 or the Supreme Court under section 257 or in appeal before the Supreme Court under section 261.

(5) When the decision on the question of law in the other case becomes final, it shall be applied to the relevant case and the Income-Tax Officer or the appellate authority as the case may be, shall, if necessary amend the order referred to in clause (a) of sub-section (4) conformably to such decision.

(6) An order under sub-section (3) shall be final and shall not be called in question in any proceeding by way of appeal, reference or revision under this Act.

Explanation.—In this section,—

(a) "appellate authority" means the Appellate Assistant Commissioner or the Commissioner (Appeals) or the Appellate Tribunal;

(b) "case", in relation to an assessee, means any proceeding under this Act for the assessment of the total income of the assessee or for the imposition of any penalty on him.

32. Amendment of section 186.—In section 186 of the Income-tax Act, in sub-section (4), for the words "the date of the order cancelling the registration", the words "the end of the financial year in which the order cancelling the registration was passed" shall be substituted with effect from the 1st day of October, 1984.

33. Amendment of section 187.—In section 187 of the Income-tax Act, to sub-section (2), the following proviso shall be added and shall be deemed to have been added with effect from the 1st day of April, 1975, namely:—

"Provided that nothing contained in clause (a) shall apply to a case where the firm is dissolved on the death of any of its partners."

34. Amendment of section 208.—In section 208 of the Income-tax Act with effect from the 2nd day of April, 1985,—

(a) in sub-section (1), in clause (a), for the words, brackets, letter and figures "clause (a) of section 209" the words, brackets, letter and figures "clause (a) of sub-section (1) of section 209" shall be substituted;

(b) after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) Notwithstanding anything contained in the foregoing provisions of this section, where in the case of an assessee referred to in clause (c) or clause (d) of sub-section (2), the amount of advance tax payable by him during the financial year, as computed in accordance with the provisions of this section does not exceed fifteen hundred rupees, it shall not be necessary for such assessee to pay any advance tax during that financial year."

35. Amendment of section 214.—In section 214 of the Income-tax Act,—

(a) in sub-section (1), for the words "tax determined on regular assessment", the words "assessed tax" shall be substituted;

(b) for sub-section (1A), the following sub-section shall be substituted, namely:—

"(1A) Where as a result of an order under section 147 or section 54 or section 155 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264, the amount on which interest was payable under sub-section (1) has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly, and in case where the interest is reduced, the Income Tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the amount of the excess interest payable and requiring him to pay such amount; and such notice of demand shall be deemed to be a notice under section 156 and the provisions of this Act shall apply accordingly."

(c) after sub-section (2), the following *Explanations* shall be inserted, namely:—

"*Explanation 1.*—In this section, "assessed tax" shall have the same meaning as in sub-section (5) of section 215.

"*Explanation 2.*—Where, in relation to an assessment year, an assessment is made for the first time under section 147, the assessment so made shall be regarded as regular assessment for the purposes of this section."

36. Amendment of section 215.—In section 215 of the Income tax Act,—

(a) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) Where as a result of an order under section 147 or section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264, the amount on which interest was payable under sub-section (1) has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly, and—

(i) in a case where the interest is increased, the Income Tax Officer shall serve on the assessee notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be a notice under section 156 and the provisions of this Act shall apply accordingly;

(ii) in a case where the interest is reduced, the excess interest paid, if any, shall be refunded."

(b) after sub-section (5), the following sub-section shall be inserted, namely:—

"(6) Where, in relation to an assessment year, an assessment is made for the first time under section 147, the assessment so made shall be regarded as a regular assessment for the purposes of this section and sections 216, 217 and 273."

37. *Amendment of section 220.*—In section 220 of the Income-tax Act, after sub-section (2), the following sub-section shall be inserted with effect from the 1st day of October, 1984, namely :—

“(2A) Notwithstanding anything contained in sub-section (2), the Board may reduce or waive the amount of interest payable by an assessee under the said sub-section if, on the recommendation made by the Commissioner in this behalf, it is satisfied that—

- (i) payment of such amount would cause genuine hardship to the assessee;
- (ii) default in the payment of the amount on which interest was payable under the said sub-section was due to circumstances beyond the control of the assessee; and
- (iii) the assessee has co-operated in any inquiry relating to the assessment or any proceeding for the recovery of any amount due from him”.

38. *Amendment of section 231.*—In section 231 of the Income-tax Act, for the words “one year”, wherever they occur, the words “three years” shall be substituted with effect from the 1st day of October, 1984.

39. *Amendment of section 245A.*—In section 245A of the Income-tax Act, for clause (a), the following clause shall be substituted with effect from the 1st day of October, 1984, namely :—

“(a) “case” means any proceeding under this Act for the assessment or re-assessment of any person in respect of any year or years, or by way of appeal or revision in connection with such assessment or re-assessment, which may be pending before an income-tax authority on the date on which an application under sub-section (1) of section 245C is made :”.

40. *Amendment of section 245C.*—In section 245C of the Income-tax Act, for sub-section (1), the following sub-sections shall be substituted with effect from the 1st day of October, 1984, namely :—

“(1) An assessee may, at any stage of a case relating to him, make an application in such form and in such manner as may be prescribed, and containing a full and true disclosure of his income which has not been disclosed before the Income-tax Officer, the manner in which such income has been derived, the additional amount of income-tax payable on such income and such other particulars as may be prescribed, to the Settlement Commission to have the case settled and any such application shall be disposed of in the manner hereinafter provided :

Provided that no such application shall be made unless the additional amount of income-tax payable on the income disclosed in the application exceeds fifty thousand rupees.

(1A) For the purposes of sub-section (1) of this section and sub-sections (2A) to (2D) of section 245D, the additional amount of income-tax payable in respect of the income disclosed in an application made under sub-section (1) of this section shall be the amount calculated in accordance with the provisions of sub-sections (1B) to (1D).

(1B) Where the income disclosed in the application relates to only one previous year,—

- (i) if the applicant has not furnished a return in respect of the total income of that year and no assessment has been made in respect of the total income of that year, tax shall be calculated on the income disclosed in the application as if such income were the total income ;
- (ii) if the applicant has furnished return in respect of the total income of that year and no assessment has been made in pursuance of such return, tax shall be calculated on the aggregate of the total income returned and the income disclosed in the application as if such aggregate were the total income ; and
- (iii) if an assessment in respect of the total income of that year has been made, tax shall be calculated on the aggregate of the total income as assessed and the income disclosed in the application as if such aggregate were the total income.

(1C) The tax as calculated under sub-section (1B) shall be reduced,—

- (a) in a case referred to in clause (i) of sub-section (1B), by the sum, if any, deducted at source under Chapter XVII-B or paid in advance under Chapter XVII-C ;
- (b) in a case referred to in clause (ii) of sub-section (1B), by the aggregate of the sums referred to in clause (a) and the tax, if any, paid by the applicant under section 140A ; and
- (c) in a case referred to in clause (iii) of sub-section (1B), by the aggregate of the sums and tax referred to in clause (b) as increased by the tax, if any, paid in pursuance of the assessment made in respect of the total income of that year,

and the resultant amount so arrived at shall be the additional amount of income-tax payable in respect of the income disclosed in the application relating to that year.

(1D) Where the income disclosed in the application relates to more than one previous year, the additional amount of income-tax payable in respect of the income disclosed for each of the years shall first be calculated in accordance with the proviso of sub-sections (1B) and (1C) and the aggregate of the amount so arrived at in respect of each of the years for which the application has been made under sub-section (1) shall be the additional amount of income-tax payable in respect of the income disclosed in the application.

(1E) Where any books of account, other documents, money, bullion, jewellery or other valuable article or thing belonging to an assessee are seized under section 132, the assessee shall not be entitled to make an application under sub-section (1) before the expiry of one hundred and twenty days from the date of the seizure.”.

41. *Amendment of section 245D.*—In section 245D of the Income-tax Act, with effect from the 1st day of October, 1984, —

(a) sub-section (1A), the words and figures “under the Indian Income-tax Act, 1922 (11 of 1922), or” shall be omitted;

(b) after sub-section (2), the following sub-sections shall be inserted, namely:—

“(2A) Subject to the provisions of sub-section (2B), the assessee shall, within thirty-five days of the receipt of a copy of the order under sub-section (1), pay the additional amount of income-tax payable on the income disclosed in the application and shall furnish proof of such payment to the Settlement Commission.

(2B) If the Settlement Commission is satisfied, on an application made in this behalf by the assessee, that he is unable for good and sufficient reasons to pay the additional amount of income-tax referred to in sub-section (2A) within the time specified in that sub-section, it may extend the time for payment of the amount which remains unpaid or allow payment thereof by instalments if the assessee furnishes adequate security for the payment thereof.

(2C) Where the additional amount of income-tax is not paid within the time specified under sub-section (2A), then, whether or not the Settlement Commission has extended the time for payment of the amount which remains unpaid or has allowed payment thereof by instalments under sub-section (2B), the assessee shall be liable to pay simple interest at fifteen per cent per annum on the amount remaining unpaid from the date of expiry of the period of thirty-five days referred to in sub-section (2A).

(2D) Where the additional amount of income-tax referred to in sub-section (2A) is not paid by the assessee within the time specified under that sub-section or extended under sub-section (2B), as the case may be, the Settlement Commission may direct that the amount of income-tax remaining unpaid, together with any interest payable thereon under sub-section (2C), be recovered and any penalty for default in making payment of such additional amount may be imposed and recovered, in accordance with the provisions of Chapter XVII, by the Income-tax Officer having jurisdiction over the assessee.”;

(c) in sub-section (6), for the words “tax, penalty or interest”, the words “tax or penalty” shall be substituted ;

(d) after sub-section (6), the following sub-section shall be inserted, namely:—

“(6A) Where any tax payable in pursuance of an order under sub-section (4) is not paid by the assessee within thirty-five days of the receipt of a copy of the order by him, then, whether or not the Settlement Commission has extended the time for payment of such tax or has allowed payment thereof by instalments, the assessee shall be liable to pay simple interest at fifteen per cent per annum on the amount remaining unpaid from the date of expiry of the period of thirty-five days aforesaid.”;

(e) after sub-section (7), the following sub-section shall be inserted, namely:—

“(8) For the removal of doubts, it is hereby declared that nothing contained in section 153 shall apply to any order passed under sub-section (4) or to any order of assessment, re-assessment or re-computation required to be made by the Income-tax Officer in pursuance of any directions contained in such order passed by the Settlement Commission.”.

42. *Amendment of section 245E.*—In section 245E of the Income-tax Act, the words and figures “under the Indian Income-tax Act, 1922 (11 of 1922), or” shall be omitted with effect from the 1st day of October, 1984.

43. *Amendment of section 245H.*—In section 245H of the Income-tax Act, in sub-section (1), for the words “and also from the imposition of any penalty”, the words and brackets “and also (either wholly or in part) from the imposition of any penalty” shall be substituted with effect from the 1st day of October, 1984.

44. *Amendment of section 245M.*—In section 245M of the Income-tax Act, in sub-section (1), after the words “on withdrawing such appeal from the Appellate Tribunal” the words, figures and letters “before the 1st day of October, 1984” shall be inserted with effect from the 1st day of October, 1984.

45. *Amendment of section 246.*—In section 246 of the Income-tax Act, in sub-section (2), with effect from the 1st day of October, 1984,—

(a) after clause (c), the following clause shall be inserted, namely:—

“(d) an order of assessment made after the 30th day of September, 1984, on the basis of directions issued by the Inspecting Assistant Commissioner under section 144A”;

(b) after clause (f), the following clause shall be inserted, namely:—

“(ff) an order made by the Inspecting Assistant Commissioner under section 154”.

46. *Amendment of section 253.*—In section 253 of the Income-tax Act, in sub-section (1), clause (b) shall be omitted with effect from the 1st day of October, 1984.

47. *Amendment of section 263.*—In section 263 of the Income-tax Act, with effect from the 1st day of October, 1984,—

(a) in sub-section (1), the following *Explanation* shall be inserted at the end, namely :—

“*Explanation.*— For the removal of doubts, it is hereby declared that, for the purposes of this sub-section, an order passed by the Income-tax Officer shall include—

(a) an order of assessment made on the basis of directions issued by the Inspecting Assistant Commissioner under section 144A or section 144B ; and

(b) an order made by the Inspecting Assistant Commissioner in exercise of the powers or in performance of the functions of an Income-tax Officer conferred on, or assigned to, him under clause (a) of sub-section (1) of section 125 or under sub-section (1) of section 125A.”;

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) No order shall be made under sub-section (1) after the expiry of two years from the end of the financial year in which the order sought to be revised was passed.”.

48. *Amendment of section 271.*—In section 271 of the Income-tax Act, in sub-section (1), after *Explanation 4*, the following *Explanation* shall be inserted with effect from the 1st day of October, 1984, namely:—

“*Explanation 5.*—Where in the course of a search under section 132, the assessee is found to be the owner of any money, bullion, jewellery or other valuable article or thing (hereafter in this *Explanation* referred to as assets) and the assessee claims that assets have been acquired by him by utilising (wholly or in part) his income,—

(a) for any previous year which has ended before the date of the search, but the return of income for such year has not been furnished before the said date or, where such return has been furnished before the said date, such income has not been declared therein; or

(b) for any previous year which is to end on or after the date of the search,

then, notwithstanding that such income is declared by him in any return of income furnished on or after the date of the search, he shall, for the purposes of imposition of a penalty under clause (c) of sub-section (1) of this section, be deemed to have concealed the particulars of his income or furnished inaccurate particulars of such income, unless such income is, or the transactions resulting in such income are, recorded—

(i) in a case falling under clause (a), before the date of the search; and

(ii) in a case falling under clause (b), on or before such date,

in the books of account, if any, maintained by him for any source of income or such income is otherwise disclosed to the Commissioner before the said date.”.

49. *Amendment of section 273.*—In section 273 of the Income-tax Act, in sub-section (2), the *Explanation* shall be numbered as *Explanation 1* and after *Explanation 1* as so numbered, the following *Explanation* shall be inserted, namely:—

“*Explanation 2.*—When the person liable to penalty is a registered firm or an unregistered firm which has been assessed under clause (b) of section 183, then notwithstanding anything contained in the other provisions of this Act, the penalty imposable under this section shall be the same amount as would be imposable on that firm if that firm were an unregistered firm.”.

50. *Amendment of section 273A.*—In section 273A of the Income-tax Act, with effect from the 1st day of October, 1984,—

(a) in sub-section (1), the *Explanation* shall be numbered as *Explanation 1* and after *Explanation* as so numbered, the following *Explanation* shall be inserted, namely:—

“*Explanation 2.*—Where any books of account, other documents, money, bullion, jewellery or other valuable article or thing belonging to a person are seized under section 132 and within fifteen days of such seizure, the person makes a full and true disclosure of his income to the Commissioner, such person shall, for the purposes of clause (b) of this sub-section, be deemed to have made, prior to the detection by the Income-tax Officer of the concealment of particulars of income or of the inaccuracy of particulars furnished in respect of such income, voluntarily and in good faith, a disclosure of such particulars.”;

(b) in sub-section (2), in clause (a), for the words “fifty thousand rupees”, the words “one hundred thousand rupees” shall be substituted;

(c) to sub-section (4), the following proviso shall be added, namely:—

“Provided that where the amount of any penalty payable under this Act, or, where such application relates to more than one penalty, the aggregate amount of such penalties exceeds one hundred thousand rupees, no order reducing or waiving the amount or compounding any proceeding for its recovery under this sub-section shall be made by the Commissioner except with the previous approval of the Board.”.

51. *Amendment of section 279.*—In section 279 of the Income-tax Act, in sub-section (1), after the word, figures and letter “section 276D”, the word, figures and letters “section 276DD,” shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1984.

52. *Amendment of section 288.*—In section 288 of the Income-tax Act, sub-section (3) shall be omitted with effect from the 1st day of October, 1984.

CHAPTER III

AMENDMENTS TO THE WEALTH-TAX ACT, 1957

53. *Amendment of section 4.*—In section 4 of the Wealth-tax Act, 1957, (27 of 1957) (hereafter in this Chapter referred to as the Wealth-tax Act), in sub-section (1), in clause (a),—

(a) in sub-clause (v), the word “or” shall be inserted at the end;

(b) after sub-clause (v), the following sub-clause shall be inserted, namely:—

“(vi) by a person or association of persons to whom such assets have been transferred by the individual, directly or indirectly, on or after the 1st day of June, 1973, otherwise than for adequate consideration for the immediate or deferred benefit of the son's wife, or the son's minor child, of such individual or both.”.

54. *Amendment of section 5.*—In section 5 of the Wealth-tax Act,—

(a) in sub-section (1),—

(i) after clause (xxviiia) [directed to be inserted by item (3) of sub-clause (i) of clause (a) of section 34 of the Finance Act, 1984), (21 of 1984)], the following clause shall be inserted, namely:—

“(xxviiib) any deposits with any authority constituted in India by or under any law enacted either for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages, or for both;”.

(ii) in clause (xxxiii), after the words “being a person of Indian origin”, the words and brackets “or a citizen of India (hereafter in this clause referred to as such person)” shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1977 ;

(b) in sub-section (1A), after the brackets, figures and letter “(xxviiia),” the brackets, figures and letter “(xxviiib),” shall be inserted ;

(c) in sub-section (3),—

(i) after the brackets, figures and letter “(xxviiia),” the brackets, figures and letter “(xxviiib),” shall be inserted :

(ii) in the *Explanation*, for the words “thirty days”, the words “sixty days” shall be substituted.

55. *Substitution of new section for section 8A.*—In the Wealth-tax Act, for section 8A, the following section shall be substituted with effect from the 1st day of October, 1984, namely:—

“8A. *Powers of Commissioner respecting specified areas, cases, persons, etc.*—(1) The Commissioner may, by general or special order in writing, direct that—

(a) the powers conferred on the Wealth-tax Officer by or under this Act shall, in respect of any specified case or class of cases or of any specified person or class of persons, be exercised by the Inspecting Assistant Commissioner ;

(b) such of the functions assigned to the Wealth-tax Officer by or under this Act, as are specified in any such order may, in respect of any specified area or specified cases, or classes of cases or specified persons or classes of persons, be performed by an Inspector of Wealth-tax or any member of the ministerial staff appointed to work under the Commissioner or any other wealth-tax authority subordinate to him, and specified in such order, subject to such conditions, restrictions or limitations as may be specified therein :—

Provided that the Commissioner shall not, unless he is authorised in this behalf by the Board by general or special order in writing, make an order under clause (b) in relation to the functions of a Wealth-tax Officer mentioned in the following provisions of this Act, namely, sections 15B, 16, 17, 18, 20, 22, 24, 32, 37 and 37A.

(2) For the purposes of any case or person or proceeding under this Act in respect of which or whom an order under sub-section (1) applies,—

(a) where such order is made under clause (a) of the said sub-section, references in this Act or in any rule made thereunder to the Wealth-tax Officer shall be deemed to be references to the Inspecting Assistant Commissioner and any provision of this Act requiring approval or sanction of the Inspecting Assistant Commissioner shall not apply ;

(b) where such order is made under clause (b) of the said sub-section, references in this Act or in any rule made thereunder to the Wealth-tax Officer shall be deemed to include references to the Inspector or Wealth-tax or the member of the ministerial staff specified in such order.”.

56. *Amendment of section 17A.*—In section 17A of the Wealth-tax Act, in *Explanation 1*, after clause (ii), the following clause shall be inserted with effect from the 1st day of October, 1984, namely:—

“(iia) the period (not exceeding sixty days) commencing from the date on which the Wealth-tax Officer received the declaration under sub-section (1) of section 18C and ending with the date on which the order under sub-section (3) of that section is made by him, or”.

57. *Amendment of section 18.*—In section 18 of the Wealth-tax Act, in sub-section (1), after *Explanation 4*, the following *Explanation* shall be inserted with effect from the 1st day of October, 1984, namely:—

“*Explanation 5.*—Where in the course of a search under section 37A, the assessee is found to be the owner of any money, bullion, jewellery or other valuable article or thing (hereafter in this *Explanation* referred to as assets) and the assessee claims that such assets represent or form part of his net wealth,—

(a) on any valuation date falling before the date of the search, but the return in respect of the net wealth on such date has not been furnished before the date of the search or, where such return has been furnished before the said date, such assets have not been declared in such return ; or

(b) on any valuation date falling on or after the date of the search,

then, notwithstanding that such assets are declared by him in any return of net wealth furnished on or after the search, he shall, for the purposes of imposition of a penalty under clause (c) of sub-section (1) of this section, be deemed to have concealed the particulars of such assets or furnished inaccurate particulars of such assets, unless such assets are recorded,—

- (i) in a case falling under clause (a), before the date of the search ; and
- (ii) in a case falling under clause (b), on or before such date, in the books of account, if any, maintained by him or such assets are otherwise disclosed to the Commissioner before the said date.”

58. *Amendment of section 18B.*—In section 18B of the Wealth-tax Act, in sub-section (1), with effect from the day of October, 1984,—

(a) the *Explanation* shall be numbered as *Explanation 1* ; and

(b) after *Explanation 1* as so numbered, the following *Explanation* shall be inserted , namely:—

“*Explanation 2.*—Where any books of account or other documents belonging to a person are seized under section 37A and within fifteen days of such seizure, the person makes a full and true disclosure of his net wealth to the Commissioner, such person shall, for the purposes of clause (b) of this sub-section, be deemed to have made, prior to the detection by the Wealth-tax Officer of the concealment of particulars of assets or of the inaccuracy of particulars furnished in respect of any asset or debt in respect of which the penalty is imposable, voluntarily and in good faith, a disclosure of such particulars.”

59. *Insertion of new Chapter IVA.*—In the Wealth-tax Act, after Chapter IV, the following Chapter shall be inserted with effect from the 1st day of October, 1984, namely:—

CHAPTER IVA

SPECIAL PROVISION FOR AVOIDING REPETITIVE

APPEALS

18C. *Procedure when assessee claims identical question of law is pending before High Court or Supreme Court.*—(1) Notwithstanding anything contained in this Act, where an assessee claims that any question of law arising in his case for an assessment year which is pending before the Wealth-tax Officer or any appellate authority (such case being hereafter in this section referred to as the relevant case) is identical with a question of law arising in his case for another assessment year which is pending before the High Court or the Supreme Court on a reference under section 27 or in appeal before the Supreme Court under section 29 (such case being hereafter in this section referred to as the other case), he may furnish to the Wealth-tax Officer or the appellate authority, as the case may be, a declaration in the prescribed form and verified in the prescribed manner, that if the Wealth-tax Officer or the appellate authority, as the case may be, agrees to apply to the relevant case the final decision on the question of law in the other case, he shall not raise such question of law in the relevant case in appeal before any appellate authority or for a reference before the High Court or the Supreme Court under section 27 or in appeal before the Supreme Court under section 29.

(2) Where a declaration under sub-section (1) is furnished to any appellate authority, the appellate authority shall call for a report from the Wealth-tax Officer on the correctness of the claim made by the assessee and, where the Wealth-tax Officer makes a request to the appellate authority to give him an opportunity of being heard in the matter, the appellate authority shall allow him such opportunity.

(3) The Wealth-tax Officer or the appellate authority, as the case may be, may, by order in writing,—

- (i) admit the claim of the assessee if he or it is satisfied that the question of law arising in the relevant case is identical with the question of law in the other case ; or
- (ii) reject the claim if he or it is not satisfied.

(4) Where a claim is admitted under sub-section (3),—

- (a) the Wealth-tax Officer or, as the case may be, the appellate authority may make an order disposing of the relevant case without awaiting the final decision on the question of law in the other case ; and
- (b) the assessee shall not be entitled to raise, in relation to the relevant case, such question of law in appeal before any appellate authority or for a reference before the High Court or the Supreme Court under section 27 or in appeal before the Supreme Court under section 29.

(5) When the decision on the question of law in the other case becomes final, it shall be applied to the relevant case and the Wealth-tax Officer or the appellate authority, as the case may be, shall, if necessary, amend the order referred to in clause (a) of sub-section (4) conformably to such decision.

(6) An order under sub-section (3) shall be final and shall not be called in question in any proceeding by way of appeal, reference or revision under this Act.

Explanation.—In this section,—

(a) “appellate authority” means the Appellate Assistant Commissioner or the Commissioner (Appeals) or the Appellate Tribunal ;

(b) “case”, in relation to an assessee, means any proceeding under this Act for the assessment of the net wealth of the assessee or for the imposition of any penalty on him.”

60. *Amendment of section 22A.*—In section 22A of the Wealth-tax Act, for clause (a), the following clause shall be substituted with effect from the 1st day of October, 1984, namely:—

“(a) “case” means any proceeding under this Act for the assessment or re-assessment of any person in respect of any year or years, or by way of appeal or revision in connection with such assessment or re-assessment, which may be pending before a wealth-tax authority on the date on which an application under sub-section (1) of section 22C is made ;”.

61. *Amendment of section 22C.*—In section 22C of the Wealth-tax Act, for sub-section (1), the following sub-sections shall be substituted with effect from the 1st day of October, 1984, namely:—

(1) An assessee may, at any stage of a case relating to him, make an application in such form and in such manner as may be prescribed, and containing a full and true disclosure of his wealth which has not been disclosed before the Wealth-tax Officer, the manner in which such wealth has been derived, the additional amount of wealth-tax payable on such wealth and such other particulars as may be prescribed, to the Settlement Commission to have the case settled and any such application shall be disposed of in the manner hereinafter provided.

(1A) For the purposes of sub-section (1) of this section and sub-sections (2A) to (2D) of section 22D, the additional amount of wealth-tax payable in respect of the wealth disclosed in an application made under sub-section (1) of this section shall be the amount calculated in accordance with the provisions of sub-sections (1B) to (1D).

(1B) Where the wealth disclosed in the application relates to only one assessment year,—

- (a) if the applicant has not furnished a return in respect of the net wealth for that year and no assessment has been made in respect of the net wealth for that year, wealth-tax shall be calculated on the wealth disclosed in the application as if such wealth were the net wealth ;
- (b) if the applicant has furnished a return in respect of the net wealth for that year and no assessment has been made in pursuance of such return, wealth-tax shall be calculated on the aggregate of the net wealth returned and the wealth disclosed in the application as if such aggregate were the net wealth ; and
- (c) if an assessment in respect of the net wealth for that year has been made, wealth-tax shall be calculated on the aggregate of the net wealth as assessed and the wealth disclosed in the application as if such aggregate were the net wealth.

(1C) The wealth-tax as calculated under sub-section (1B) shall,—

- (a) in a case referred to in clause (b) of sub-section (1B), be reduced by the wealth-tax, if any, paid by the applicant under section 15B ; and
- (b) in a case referred to in clause (c) of sub-section (1B), be reduced by the aggregate of the wealth-tax referred to in clause (a) and the wealth-tax, if any, paid by the applicant in pursuance of the assessment made in respect of the net wealth for that year,

and the amount referred to in clause (a) of sub-section (1B) or, as the case may be, the resultant amount arrived at under clause (a) or clause (b), as the case may be, shall be the additional amount of wealth-tax payable in respect of the wealth disclosed in the application relating to that year.

(1D) Where the wealth disclosed in the application relates to more than one assessment year, the additional amount of wealth-tax payable in respect of the wealth disclosed for each of the years shall first be calculated in accordance with the provisions of sub-sections (1B) and (1C) and the aggregate of the amount so arrived at in respect of each of the years for which the application has been made under sub-section (1) shall be the additional amount of wealth-tax payable in respect of the wealth disclosed in the application.

(1E) Where any books of account or other documents belonging to an assessee are seized under section 37A, the assessee shall not be entitled to make an application under sub-section (1) before the expiry of one hundred and twenty days from the date of the seizure.

62. *Amendment of section 22D.*—In section 22D of the Wealth-tax Act, with effect from the 1st day of October, 1984,—

(a) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) Subject to the provisions of sub-section (2B), the assessee shall, within thirty-five days of the receipt of a copy of the order under sub-section (1), pay the additional amount of wealth-tax payable on the wealth disclosed in the application and shall furnish proof of such payment to the Settlement Commission.

(2B) If the Settlement Commission is satisfied, on an application made in this behalf by the assessee, that he is unable for good and sufficient reasons to pay the additional amount of wealth-tax referred to in sub-section (2A) with the time specified in that sub-section, it may extend the time for payment of the amount which remains unpaid or allow payment thereof by instalments if the assessee furnishes adequate security for the payment thereof.

(2C) Where the additional amount of wealth tax is not paid within the time specified under sub-section (2A), then, whether or not the Settlement Commission has extended the time for payment of the amount which remains unpaid or has allowed payment thereof by instalments under sub-section (2B), the assessee shall be liable to pay simple interest at fifteen per cent per annum on the amount remaining unpaid from the date of expiry of the period of thirty five days referred to in sub-section (2A).

(2D) Where the additional amount of wealth-tax referred to in sub-section (2A) is not paid by the assessee within the time specified under that sub-section or extended under sub-section (2B), as the case may be, the Settlement Commission may direct that the amount of wealth-tax remaining unpaid, together with any interest payable thereon under sub-section (2C), be recovered and any penalty for default in making payment of such additional amount of wealth-tax may be imposed and recovered, in accordance with the provisions of Chapter VII, by the Wealth-tax Officer having jurisdiction over the assessee.”;

(b) in sub-section (6), for the words “tax, penalty or interest”, the words “tax or penalty” shall be substituted ;

(c) after sub-section (6), the following sub-section shall be inserted, namely:—

“(6A) Where any tax payable in pursuance of an order under sub-section (4) is not paid by the assessee within thirty-five days of the receipt of a copy of the order by him, then, whether or not the Settlement Commission has extended the time for payment of such tax or has allowed payment thereof by instalments, the assessee shall be liable to pay simple interest at fifteen per cent per annum on the amount remaining unpaid from the date of expiry of the period of thirty-five days aforesaid.”;

(d) after sub-section (7), the following sub-section shall be inserted, namely:—

“(8) For the removal of doubts, it is hereby declared that nothing contained in section 17A shall apply to any order passed under sub-section (4) or to any order of assessment or re-assessment required to be made by the Wealth-Tax Officer in pursuance of any directions contained in such order passed by the Settlement Commission.”.

63. *Amendment of section 22H.*—In section 22H of the Wealth-tax Act, in sub-section (1), for the words “and also from the imposition of any penalty”, the words and brackets “and also (either wholly or in part) from the imposition of any penalty” shall be substituted with effect from the 1st day of October, 1984.

64. *Amendment of section 22M.*—In section 22M of the Wealth-tax Act, in sub-section (1), after the words “on withdrawing such appeal from the Appellate Tribunal”, the words, figures and letters “before the 1st day of October, 1984” shall be inserted with effect from the 1st day of October, 1984.

65. *Amendment of section 25.*—In section 25 of the Wealth-tax Act, with effect from the 1st day of October 1984,—

(a) in sub-section (2), the following *Explanation* shall be inserted at the end, namely :—

“*Explanation.*—For the removal of doubts, it is hereby declared that, for the purposes of this sub-section, an order passed by a Wealth-tax Officer shall include an order passed by an Inspecting Assistant Commissioner in exercise of the powers or in performance of the functions of a Wealth-tax Officer conferred on, or assigned to, him under clause (a) of sub-section (1) of section 8A or under sub-section (1) of section 8AA.”;

(b) in sub-section (3), for the words “from the date of the order sought to be revised”; the words “from the end of the financial year in which the order sought to be revised was passed” shall be substituted.

66. *Amendment of section 31.*—In section 31 of the Wealth-tax Act, with effect from the 1st day of October, 1984,—

(a) in sub-section (2), for the words “twelve per cent.”, the words “fifteen per cent.” shall be substituted ;

(b) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) Notwithstanding anything contained in sub-section (2), the Board may reduce or waive the amount of interest payable by an assessee under the said sub-section if, on the recommendation made by the Commissioner in this behalf, it is satisfied that—

- (i) payment of such amount would cause genuine hardship to the assessee ;
- (ii) default in the payment of the amount on which interest was payable under said sub-section was due to circumstances beyond the control of the assessee ; and
- (iii) the assessee has co-operated in any inquiry relating to the assessment or any proceeding for the recovery of any amount due from him.”.

67. *Amendment of section 34A.*—In section 34A of the Wealth-tax Act, for the words “twelve per cent.”, the words “fifteen per cent.” shall be substituted with effect from the 1st day of October, 1984.

68. *Insertion of new section 34ACC.*—After section 34AC of the Wealth-tax Act, the following section shall be inserted with effect from the 1st day of October, 1984, namely :—

Furnishing of particulars in certain cases “34ACC.—Where any person who is registered as a valuer under section 34AB or who has made an application for registration as a valuer under that section is, at any time thereafter,—

(a) convicted of any offence and sentenced to a term of imprisonment ; or

(b) in a case where he is a member of any association or institution established in India having as its object the control, supervision, regulation or encouragement of the profession of architecture, accountancy, or company secretaries or such other profession as the Board may specify in this behalf by notification in the Official Gazette, found guilty of misconduct in his professional capacity, by such association or institution,

he shall immediately after such conviction or, as the case may be, finding, intimate the particulars thereof to the Board.”.

69. *Amendment of section 35.*—In section 35 of the Wealth-tax Act, in sub-section (7), with effect from the 1st day of October, 1984,—

- (i) in clause (a), for the words “from the date of the order passed in the first appeal or revision”, the words “from the end of the financial year in which the order was passed in the first appeal or revision” shall be substituted ;
- (ii) in clause (b), for the words “from the date of the order sought to be amended”, the words “from the end of the financial year in which the order sought to be amended was passed” shall be substituted.

70. *Insertion of new section 35EE.*—After section 35E of the Wealth-tax Act, the following section shall be inserted with effect from the 1st day of October, 1984, namely:—

“35EE. *Failure to furnish particulars under section 34ACC.* If a person referred to in section 34ACC fails, without reasonable cause or excuse, to intimate to the Board the particulars of conviction or finding referred to in the said section, he shall be punishable with rigorous imprisonment for a term which may extend to two years and shall also be liable to fine.”

CHAPTER IV

AMENDMENT TO THE GIFT-TAX ACT, 1958

71. *Amendment of section 2.*—In section 2 of the Gift-tax Act, 1958 (18 of 1958) (hereafter in this Chapter referred to as the Gift-tax Act), in clause (va), the words “not involving the carrying on of any activity for profit” shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1984.

72. *Amendment of section 5.*—In section 5 of the Gift-tax Act, in sub-section (1), after clause (xv), the following clause shall be inserted, namely:—

“(xvi) to any other person, up to a maximum of rupees five hundred in value in one previous year.”

73. *Substitution of new section for section 7A.*—In the Gift-tax Act, for section 7A, the following section shall be substituted with effect from the 1st day of October, 1984, namely:—

“7A. *Powers of Commissioner respecting specified areas, cases, persons, etc.*—(1) The Commissioner may, by general or special order in writing, direct that—

- (a) the powers conferred on the Gift-tax Officer by or under this Act shall, in respect of any specified case or class of cases or of any specified person or class of persons, be exercised by the Inspecting Assistant Commissioner ;
- (b) such of the functions assigned to the Gift-tax Officer by or under this Act, as are specified in any such order may, in respect of any specified area or specified cases or classes of cases or specified persons or classes of persons, be performed by an Inspector of Gift-tax or any member of the ministerial staff appointed to work under the Commissioner or any other Gift-tax authority subordinate to him, and specified in such order, subject to such conditions, restrictions or limitations as may be specified therein :

Provided that the Commissioner shall not, unless he is authorised in this behalf by the Board by general or special order in writing, make an order under clause (b) in relation to the functions of a Gift-tax Officer mentioned in the following provisions of this Act, namely, sections 15, 16, 17, 19A, 20, 21, 21A, 23, 32, 33 and 36.

(2) For the purposes of any case or person or proceeding under this Act in respect of which or whom an order under sub-section (1) applies,—

- (a) where such order is made under clause (a) of the said sub-section, references in this Act or in any rule made thereunder to the Gift-tax Officer shall be deemed to be references to the Inspecting Assistant Commissioner and any provision of this Act requiring approval or sanction of the Inspecting Assistant Commissioner shall not apply ;
- (b) where such order is made under clause (b) of the said sub-section, references in this Act or in any rule made thereunder to the Gift-tax Officer shall be deemed to include references to the Inspector of Gift-tax or the member of the ministerial staff specified in such order.”

74. *Amendment of section 24.*—In section 24 of the Gift-tax Act, with effect from the 1st day of October, 1984,—

(a) in sub-section (2), the following *Explanation* shall be inserted at the end, namely:—

“*Explanation.*—For the removal of doubts, it is hereby declared that, for the purposes of this sub-section, an order passed by a Gift-tax Officer shall include an order passed by an Inspecting Assistant Commissioner in exercise of the powers or in performance of the functions of a Gift-tax Officer conferred on, or assigned to, him under clause (a) of sub-section (1) of section 7A or under sub-section (1) of section 7AA.”

(b) in sub-section (3), for the words “from the date of the order sought to be revised”, the words “from the end of the financial year in which the order, sought to be revised was passed” shall be substituted.

75. *Amendment of sections 32 and 33A.*—In sections 32 and 33A of the Gift-tax Act, for the words “twelve per cent.”, the words “fifteen per cent.” shall be substituted with effect from the 1st day of October, 1984.

76. *Amendment of section 34.*—In section 34 of the Gift-tax Act, in sub-section (7), for the words “from the date of the order sought to be amended”, the words “from the end of the financial year in which the order sought to be amended was passed” shall be substituted with effect from the 1st day of October, 1984.

CHAPTER V

AMENDMENT TO THE COMPANIES (PROFITS) SURTAX ACT, 1964

77. *Amendment of sections 7B to 7D.*—In sections 7B to 7D of the Companies (Profits) Surtax Act, 1964 (7 of 1964) [hereafter in this Chapter referred to as the Companies (Profits) Surtax Act], for the words "twelve per cent", wherever they occur, the words "fifteen per cent." shall be substituted with effect from the 1st day of October, 1984.

78. *Amendment of section 13.*—In section 13 of the Companies (Profits) Surtax Act, in sub-section (1), for the words "within four years of the date on which such order was passed", the words "within four years from the end of the financial year in which such order was passed" shall be substituted with effect from the 1st day of October, 1984.

79. *Amendment of section 14.*—In section 14 of the Companies (Profits) Surtax Act, for the words "from the date of the order passed under the aforesaid sections of the Income-tax Act", the words "from the end of the financial year in which the order under the aforesaid sections of the Income-tax Act was passed" shall be substituted with effect from the 1st day of October, 1984.

80. *Amendment of section 16.*—In section 16 of the Companies (Profits) Surtax Act, with effect from the 1st day of October, 1984,—

(a) in sub-section (1), the following *Explanation* shall be inserted at the end, namely:—

"*Explanation.*—For the removal of doubts, it is hereby declared that, for the purposes of this sub-section, an order passed by the Income-tax Officer shall include an order passed by the Inspecting Assistant Commissioner in exercise of the powers or in performance of the functions of an Income-tax Officer conferred on, or assigned to, him under clause (a) of sub-section (1) of section 125 or under sub-section (1) of section 125A of the Income-tax Act as applied by section 18 of this Act.";

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) No order shall be made under sub-section (1) after the expiry of two years from the end of the financial year in which the order sought to be revised was passed."

CHAPTER VI

AMENDMENT TO THE COMPULSORY DEPOSIT SCHEME (INCOME-TAX PAYERS)

ACT, 1974

81. *Amendment of section 13.*—In section 13 of the Compulsory Deposit Scheme (Income-tax Payers) Act, 1974, (38 of 1974) in sub-section (1), for the words "within four years of the date on which such order was passed", the words "within four years from the end of the financial year in which such order was passed" shall be substituted with effect from the 1st day of October, 1984.

CHAPTER VII

AMENDMENTS TO THE INTEREST-TAX ACT, 1974

82. *Amendment of section 17.*—In section 17 of the Interest-tax Act, 1974 (45 of 1974), (hereafter in this Chapter referred to as the Interest-tax Act), in sub-section (1), for the words "within four years of the date on which such order was passed", the words "within four years from the end of the financial year in which such order was passed" shall be substituted with effect from the 1st day of October, 1984.

83. *Amendment of section 19.*—In section 19 of the Interest-tax Act, with effect from the 1st day of October, 1984,—

(a) in sub-section (1), the following *Explanation* shall be inserted at the end, namely:—

"*Explanation.*—For the removal of doubts, it is hereby declared that, for the purposes of this sub-section, an order passed by the Income-tax Officer shall include an order passed by the Inspecting Assistant Commissioner in exercise of the powers of an Income-tax Officer conferred on him under clause (a) of sub-section (1) of section 125 of the Income-tax Act as applied by section 21 of this Act.";

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) No order shall be made under sub-section (1) after the expiry of two years from the end of the financial year in which the order sought to be revised was passed."

CHAPTER VIII

MISCELLANEOUS

84. *Applicability of revised rate of interest.*—For the removal of doubts, it is hereby declared that where interest is payable under—

- any provision of the Income-tax Act, 1961 (43 of 1961) referred to in section 24 of this Act; or
- section 31 or section 34 A of the Wealth-tax Act, 1957 (27 of 1957); or
- section 32 or section 33 A of the Gift-tax Act, 1958 (18 of 1958); or
- sections 7B to 7D and section 18 of the Companies (Profits) Surtax Act, 1964 (7 of 1964); or
- section 21 of the Interest-tax Act, 1974 (45 of 1974),

in respect of any period commencing on or before the 30th day of September, 1984 and ending after that date, such interest shall, in respect of so much of such period as falls after that date, be calculated at the rate of fifteen per cent per annum.

Assented to on 24th September, 1984.

THE LAND ACQUISITION (AMENDMENT) ACT, 1984

ACT No. 68 OF 1984

AN

ACT

further to amend the Land Acquisition Act, 1984

Be it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Land Acquisition (Amendment) Act, 1984.
2. *Amendment of section 1.*—In sub-section (2) of section 1 of the Land Acquisition Act, 1894 (1 of 1894) (hereinafter referred to as the principal Act), for the words, figures and letters "the territories which, immediately before the 1st November, 1956, were comprised in Part B States ; and", the words "the State of Jammu and Kashmir," shall be substituted.
3. *Amendment of section 3.*—In section 3 of the principal Act,—
 - (a) after clause (a), the following clause shall be inserted, namely:—

'(aa) the expression "local authority" includes a town planning authority (by whatever name called) set up under any law for the time being in force ; '
 - (b) after clause (c) the following clause shall be inserted, namely:—

'(cc) the expression "corporation owned or controlled by the State" means any body corporate established by or under a Central, Provincial or State Act, and includes a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956), a society registered under the Societies Registration Act, 1860 (21 of 1860), or under any corresponding law for the time being in force in a State, being a society established or administered by Government and a co-operative society within the meaning of any law relating to co-operative societies for the time being in force in any State, being a co-operative society in which not less than fifty-one per centum of the paid-up share capital is held by the Central Government, or by any State Government or Governments, or partly by the Central Government and partly by one or more State Governments ;'
 - (c) for clause (e), the following clause shall be substituted, namely:—

'(e) the expression "Company" means—

 - (i) a company as defined in section 3 of the Companies Act, 1956 (1 of 1956), other than a Government company referred to in clause (cc) ;
 - (ii) a society registered under the Societies Registration Act, 1860 (21 of 1860) or under any corresponding law for the time being in force in a State, other than a society referred to in clause (cc) ;
 - (iii) a co-operative society within the meaning of any law relating to co-operative societies for the time being in force in any State, other than a co-operative society referred to in clause (cc) ;'
 - (d) for clause (f), the following clause shall be substituted, namely:—

'(f) the expression "public purpose" includes—

 - (i) the provision of village-sites, or the extension, planned development or improvement of existing village-sites ;
 - (ii) the provision of land for town or rural planning ;
 - (iii) the provision of land for planned development of land from public funds in pursuance of any scheme or policy of Government and subsequent disposal thereof in whole or in part by lease, assignment or outright sale with the object of securing further development as planned ;
 - (iv) the provision of land for a corporation owned or controlled by the State ;
 - (v) the provision of land for residential purposes to the poor or landless or to persons residing in areas affected by natural calamities, or to persons displaced or affected by reason of the implementation of any scheme undertaken by Government, any local authority or a corporation owned or controlled by the State ;
 - (vi) the provision of land for carrying out any educational, housing, health or slum clearance scheme sponsored by Government or by any authority established by Government for carrying out any such scheme, or, with the prior approval of the appropriate Government, by a local authority or a society registered under the Societies Registration Act, 1860 (21 of 1860) or under any corresponding law for the time being in force in a State, or a co-operative society within the meaning of any law relating to co-operative societies for the time being in force in any State ;
 - (vii) the provision of land for any other scheme of development sponsored by Government, or, with the prior approval of the appropriate Government, by a local authority ;
 - (viii) the provision of any premises or building for locating a public office,

but does not include acquisition of land for Companies ;'

(e) in clause (g), in the proviso, in clause (iii), for the words and figures "Chapter XXXI of the Code of Civil Procedure", (14 of 1882) the words and figures "Order XXXII of the First Schedule to the Code of Civil Procedure, 1908 (5 of 1908)" shall be substituted.

4. *Amendment of section 4.*—In sub-section (1) of section 4 of the principal Act,—

(a) after the words "any public purpose", the words "or for a Company" shall be inserted ;

(b) after the words "Official Gazette", the words "and in two daily newspapers circulating in that locality of which at least one shall be in the regional language" shall be inserted ;

(c) after the words "in the said locality", the brackets and words "(the last of the dates of such publication and the giving of such public notice, being hereinafter referred to as the date of the publication of the notification)" shall be inserted.

5. *Amendment of section 5A.*—In section 5A of the principal Act,—

(a) in sub-section (1), for the words "within thirty days after the issue of the notification", the words "within thirty days from the date of the publication of the notification" shall be substituted;

(b) in sub-section (2), for the words "either in person", the words "in person or by any person authorised by him in this behalf" shall be substituted.

6. *Amendment of section 6.*—In section 6 of the principal Act,—

(a) in sub-section (1),—

(1) for the first proviso, the following proviso shall be substituted, namely:—

"Provided that no declaration in respect of any particular land covered by a notification under section 4, sub-section (1),—

(i) published after the commencement of the Land Acquisition (Amendment and Validation) Ordinance, 1967 (1 of 1967), but before the commencement of the Land Acquisition (Amendment) Act, 1984, shall be made after the expiry of three years from the date of the publication of the notification ; or

(ii) published after the commencement of the Land Acquisition (Amendment) Act, 1984, shall be made after the expiry of one year from the date of the publication of the notification :"

(2) the following *Explanations* shall be inserted at the end, namely:—

"*Explanation 1.*—In computing any of the periods referred to in the first proviso, the period during which any action or proceeding to be taken in pursuance of the notification issued under section 4, sub-section (1), is stayed by an order of a Court shall be excluded.

Explanation 2.—Where the compensation to be awarded for such property is to be paid out of the funds of a corporation owned or controlled by the State, such compensation shall be deemed to be compensation paid out of public revenues."

(b) in sub-section (2), for the words "and shall state", the words and brackets "and in two daily newspapers circulating in the locality in which the land is situate of which at least one shall be in the regional language, and the Collector shall cause public notice of the substance of such declaration to be given at convenient places in the said locality (the last of the dates of such publication and the giving of such public notice, being hereinafter referred to as the date of the publication of the declaration), and such declaration shall state" shall be substituted.

7. *Amendment of section 9.*—In section 9 of the principal Act, in sub-section (4), for the words and figures "registered under Part III of the Indian Post Office Act, 1866," (14 of 1866), the words and figures "registered under sections 28 and 29 of the Indian Post Office Act, 1908 (6 of 1898)" shall be substituted.

8. *Amendment of section 11.*—Section 11 of the principal Act shall be re-numbered as sub-section (1) of that section, and,—

(a) in sub-section (1) as so re-numbered, the following provisos shall be inserted at the end, namely:—

"Provided that no award shall be made by the collector under this sub-section without the previous approval of the appropriate Government or of such officer as the appropriate Government may authorise in this behalf :

Provided further that it shall be competent for the appropriate Government to direct that the Collector may make such award without such approval in such class of cases as the appropriate Government may specify in this behalf."

(b) after sub-section (1) as so re-numbered, the following sub-sections shall be inserted, namely:—

"(2) Notwithstanding anything contained in sub-section (1), if at any stage of the proceedings, the Collector is satisfied that all the persons interested in the land who appeared before him have agreed in writing on the matters to be included in the award of the Collector in the form prescribed by rules made by the appropriate Government, he may, without making further enquiry, make an award according to the terms of such agreement.

(3) The determination of compensation for any land under sub-section (2) shall not in any way affect the determination of compensation in respect of other lands in the same locality or elsewhere in accordance with the other provisions of this Act.

(4) Notwithstanding anything contained in the Registration Act, 1908 (16 of 1908), no agreement made under sub-section (2) shall be liable to registration under that Act."

9. *Insertion of new section 11A.*—After section 11 of the principal Act, the following section shall be inserted, namely:—

"11A. *Period within which an award shall be made.*—The Collector shall make an award under section 11 within a period of two years from the date of the publication of the declaration and if no award is made within that period, the entire proceedings for the acquisition of the land shall lapse :

Provided that in a case where the said declaration has been published before the commencement of the Land Acquisition (Amendment) Act, 1984, the award shall be made within a period of two years from such commencement.

Explanation.—In computing the period of two years referred to in this section, the period during which any action or proceeding to be taken in pursuance of the said declaration is stayed by an order of a Court shall be excluded."

10. *Insertion of new section 13A.*—After section 13 of the principal Act, the following section shall be inserted, namely:—

"13A. *Correction of clerical errors, etc.*—(1) The Collector may, at any time but not later than six months from the date of the award, or where he has been required under section 18 to make a reference to the Court, before the making of such reference, by order, correct any clerical or arithmetical mistakes in the award or errors arising therein either on his own motion or on the application of any person interested or a local authority ;

Provided that no correction which is likely to affect prejudicially any person shall be made unless such person has been given a reasonable opportunity of making a representation in the matter.

(2) The Collector shall give immediate notice of any correction made in the award to all the persons interested.

(3) Where any excess amount is proved to have been paid to any person as a result of the correction made under sub-section (1), the excess amount so paid shall be liable to be refunded and in the case of any default or refusal to pay, the same may be recovered as an arrear of land revenue."

11. *Amendment of section 14.*—In section 14 of the principal Act, for the words "Code of Civil Procedure", (14 of 1932) the words and figures "Code of Civil Procedure, 1908 (5 of 1908)" shall be substituted.

12. *Insertion of new section 15A.*—After section 15 of the principal Act, the following section shall be inserted, namely:—

"15A. *Power to call for records, etc.*—The appropriate Government may at any time before the award is made by the Collector under section 11 call for any record of any proceedings (whether by way of enquiry or otherwise) for the purpose of satisfying itself as to the legality or propriety of any finding or order passed or as to the regularity of such proceedings and may pass such order or issue such direction in relation thereto as it may think fit :

Provided that the appropriate Government shall not pass or issue any order or direction prejudicial to any person without affording such person a reasonable opportunity of being heard."

13. *Amendment of section 17.*—In section 17 of the principal Act,—

(a) in sub-section (1), for the words "take possession of any waste or arable land needed for public purposes or for a Company", the words "take possession of any land needed for a public purpose" shall be substituted;

(b) in sub-section (2), after the words "access to any such station," the words "or the appropriate Government considers it necessary to acquire the immediate possession of any land for the purpose of maintaining any structure or system pertaining to irrigation, water supply, drainage, road communication or electricity," shall be inserted ;

(c) after sub-section (3), the following sub-sections shall be inserted, namely:—

"(3A) Before taking possession of any land under sub-section (1) or sub-section (2), the Collector shall, without prejudice to the provisions of sub-section (3),—

(a) tender payment of eighty per centum of the compensation for such land as estimated by him to the persons interested entitled thereto, and

(b) pay it to them, unless prevented by some one or more of the contingencies mentioned in section 31, sub-section (2),

and where the Collector is so prevented, the provisions of section 31, sub-section (2), (except the second proviso thereto), shall apply as they apply to the payment of compensation under that section.

(3B) The amount paid or deposited under sub-section (3A), shall be taken into account for determining the amount of compensation required to be tendered under section 31, and where the amount so paid or deposited exceeds the compensation awarded by the Collector under section 11, the excess may, unless refunded within three months from the date of the Collector's award, be recovered as an arrear of land revenue."

(d) in sub-section (4), for the words "after the publication of the notification", the words "after the date of the publication of the notification" shall be substituted.

14. Amendment of section 19.—In section 19 of the principal Act, in sub-section (1),—

- (a) in clause (c), the word “and” occurring at the end shall be omitted ;
- (b) after clause (c), the following clause shall be inserted, namely:—
“(cc) the amount paid or deposited under sub-section (3A) of section 17 ; and ”.

15. Amendment of section 23.—In section 23 of the principal Act,—

- (a) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) In addition to the market value of the land, as above provided, the Court shall in every case award an amount calculated at the rate of twelve per centum per annum on such market value for the period commencing on and from the date of the publication of the notification under section 4, sub-section (1), in respect of such land to the date of the award of the Collector or the date of taking possession of the land, whichever is earlier.

Explanation.—In computing the period referred to in this sub-section, any period or periods during which the proceedings for the acquisition of the land were held up on account of any stay or injunction by the order of any court shall be excluded.” ;

- (b) in sub-section (2), for the words “fifteen per centum”, the words “thirty per centum” shall be substituted.

16. Amendment of section 24.—In section 24 of the principal Act,—

- (a) in clause sixthly, the word “or” occurring at the end shall be omitted ;
- (b) in clause seventhly, the word “or” shall be inserted at the end, and after the clause as so amended, the following clause shall be inserted, namely:—

“eightly, any increase to the value of the land on account of its being put to any use which is forbidden by law or opposed to public policy.”.

17. Substitution of new section for section 25.—For section 25 of the principal Act, the following section shall be substituted, namely:—

“25. *Amount of compensation by Court not to be lower than the amount awarded by the collector.*—The amount of compensation awarded by the Court shall not be less than the amount awarded by the Collector under section 11.”.

18. Amendment of section 28.—In section 28 of the principal Act,—

- (a) for the words “six per centum”, the words “nine per centum” shall be substituted ;
- (b) the following proviso shall be inserted at the end, namely:—

“Provided that the award of the Court may also direct that where such excess or any part thereof is paid into Court after the date of expiry of a period of one year from the date on which possession is taken, interest at the rate of fifteen per centum per annum shall be payable from the date of expiry of the said period of one year on the amount of such excess or part thereof which has not been paid into Court before the date of such expiry.”.

19. Insertion of new section 28A.—In Part III of the principal Act, after section 28, the following section, shall be inserted, namely:—

“28A: *Re-determination of the amount of compensation on the basis of the award of the Court.*—(1) Where in an award under this Part, the Court allows to the applicant any amount of compensation in excess of the amount awarded by the Collector under section 11, the persons interested in all the other land covered by the same notification under section 4, sub-section (1) and who are also aggrieved by the award of the Collector may, notwithstanding that they had not made an application to the Collector under section 18, by written application to the Collector within three months from the date of the award of the Court require that the amount of compensation payable to them may be re-determined on the basis of the amount of compensation awarded by the Court :

Provided that in computing the period of three months within which an application to the Collector shall be made under this sub-section, the day on which the award was pronounced and the time requisite for obtaining a copy of the award shall be excluded.

(2) The Collector shall, on receipt of an application under sub-section (1), conduct an inquiry after giving notice to all the persons interested and giving them a reasonable opportunity of being heard, and make an award determining the amount of compensation payable to the applicants.

(3) Any person who has not accepted the award under sub-section (2) may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court and the provisions of sections 18 to 28 shall, so far as may be apply to such reference as they apply to a reference under section 18.”.

20. Amendment of section 34.—In section 34 of the principal Act,—

- (a) for the words “six per centum”, the words “nine per centum” shall be substituted ;
- (b) the following proviso shall be inserted at the end, namely:—

“Provided that if such compensation or any part thereof is not paid or deposited within a period of one year from the date on which possession is taken, interest at the rate of fifteen per centum per annum shall be payable from the date of expiry of the said period of one year on the amount of compensation or part thereof which has not been paid or deposited before the date of such expiry.”.

21. *Omission of section 38.*—Section 38 of the principal Act shall be omitted.
22. *Amendment of section 33A.*—In section 38A of the principal Act, for the words, figures and letter “sections 5A, 6, 7, 17 and 50”, the words, figures and letter “sections 4, 5A, 6, 7 and 50” shall be substituted.
23. *Amendment of section 39.*—In section 39 of the principal Act,—
- for the words, figures and brackets “sections 6 to 37 (both inclusive)”, the words, figures and brackets “sections 6 to 16 (both inclusive) and sections 18 to 37 (both inclusive)” shall be substituted ;
 - after the words “for any Company”, the words “under this Part” shall be inserted.
24. *Amendment of section 40.*—In section 40 of the principal Act, in sub-section (3), for the words “Code of Civil Procedure (14 of 1882)”, the words and figures “Code of Civil Procedure, 1908 (5 of 1908)” shall be substituted.
25. *Amendment of section 45.*—In sub-section (3) of section 45 of the principal Act, in the proviso, for the words and figures “registered under Part III of the Indian Post Office Act, 1866 (14 of 1866)”, the words and figures “registered under sections 28 and 29 of the Indian Post Office Act, 1898 (6 of 1898)” shall be substituted.
26. *Amendment of section 46.*—In section 46 of the principal Act, for the words “fifty rupees”, the words “five hundred rupees” shall be substituted.
27. *Insertion of new section 51A.*—After section 51 of the principal Act, the following section shall be inserted, namely:—
- “51A. *Acceptance of certified copy as evidence.*—In any proceeding under this Act, a certified copy of a document registered under the Registration Act, 1908 (16 of 1908), including a copy given under section 57 of that Act, may be accepted as evidence of the transaction recorded in such document.”.
28. *Amendment of section 53.*—In section 53 of the principal Act, for the words “Code of Civil Procedure (14 of 1882)”, the words and figures “Code of Civil Procedure, 1908 (5 of 1908)” shall be substituted.
29. *Amendment of section 55.*—In sub-section (1) of section 55 of the principal Act,—
- in the second proviso, for the words “before the expiry of the session in which it is so laid or the successive sessions aforesaid”, the words “before the expiry of the session immediately following the session or the successive sessions aforesaid” shall be substituted ;
 - after the second proviso, the following proviso shall be inserted, namely:—
- “Provided also that every such rule made by the State Government shall be laid, as soon as may be after it is made, before the State Legislature.”.
30. *Transitional provisions.*—(1) The provisions of sub-section (1A) of section 23 of the principal Act, as inserted by clause (a) section 15 of this Act, shall apply, and shall be deemed to have applied, also to, and in relation to,—
- every proceeding for the acquisition of any land under the principal Act pending on the 30th day of April, 1982 [the date of introduction of the Land Acquisition (Amendment) Bill, 1982, in the House of the People], in which no award has been made by the Collector before that date ;
 - every proceeding for the acquisition of any land under the principal Act commenced after that date, whether or not an award has been made by the Collector before the date of commencement of this Act.
- (2) The provisions of sub-section (2) of section 23 and section 28 of the principal Act, as amended by clause (b) of section 15 and section 18 of this Act respectively, shall apply, and shall be deemed to have applied, also to, and in relation to, any award made by the Collector or Court or to any order passed by the High Court or Supreme Court in appeal against any such award under the provisions of the principal Act after the 30th day of April, 1982 [the date of introduction of the Land Acquisition (Amendment) Bill, 1982, in the House of the People] and before the commencement of this Act.
- (3) The provisions of section 34 of the principal Act, as amended by section 20 of this Act, shall apply, and shall be deemed to have applied, also to, and in relation to,—
- every case in which possession of any land acquired under the principal Act had been taken before the 30th day of April, 1982 [the date of introduction of the Land Acquisition (Amendment) Bill, 1982, in the House of the People], and the amount of compensation for such acquisition had not been paid or deposited under section 31 of the principal Act until such date, with effect on and from that date ; and
 - every case in which such possession has been taken on or after that date but before the commencement of this Act without the amount of compensation having been paid or deposited under the said section 31, with effect on and from the date of taking such possession.

Assented to on 10th October, 1984

THE WAKF AMENDMENT ACT, 1984
Act No. 69 of 1984

AN

AC.

further to amend the Wakf Act, 1954

Be it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Wakf (Amendment) Act, 1984.

विचार कि
पद के मती
पन्तु
की प्रपक्षा
प्रपात्र हा
विचार के

(2) It shall come into force in a State on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for the different provisions of this Act and for different States or for different areas within a State, and any reference in any provision to the commencement of this Act shall in relation to any State or area therein be construed as a reference to the commencement of that provision in such State or area.

2. *Amendment of section 1.*—In section 1 of the Wakf Act, 1954 (29 of 1954) (hereinafter referred to as the principal Act), in sub-section (3), for the first proviso, the following proviso shall be substituted, namely:—

“Provided that, as soon as may be, after the commencement of the Wakf (Amendment) Act, 1984, the Central Government may, by notification in the Official Gazette, appoint a date on which the provisions of this Act, as amended by the Wakf (Amendment) Act, 1984, shall come into force in the States of Uttar Pradesh and West Bengal and in those parts of the States of Gujarat and Maharashtra in which the provisions of this Act do not apply, and different dates may be appointed for different States or for different areas, and for the different provisions of this Act, as so amended, and, on and from the date so appointed, the corresponding law, applicable to wakfs, in force in that State or in any part thereof, or, as the case may be, in such area, shall cease to operate, and, on such cesser, such corresponding law shall be deemed to have been repealed by an Act enacted by the Legislature of that State, but such cesser shall not affect the previous operation of such corresponding law, and subject thereto, anything done or any action taken in exercise of any power conferred by or under any such corresponding law shall be deemed to have been done or taken in the exercise of powers conferred by or under this Act, as amended by the Wakf (Amendment) Act, 1984, as if this Act, as so amended, were in force on the date on which such thing was done or action was taken.”

3. *Amendment of section 3.*—In section 3 of the principal Act, —

(i) clause (d) shall be omitted ;

(ii) in clause (f).—

(a) after the words “to be the mutawalli of a wakf and includes any”, the words “person who is a mutawalli of a wakf by virtue of any custom or who is a” shall be inserted ;

(b) for the words “any person or Committee for the time being managing or administering any wakf property as such”, the words “any person, Committee or Corporation for the time being managing or administering any wakf or wakf property :

Provided that no member of a Committee or Corporation shall be deemed to be a mutawalli unless such member is an office bearer of such Committee or Corporation” shall be substituted ;

(iii) for clause (g), the following clause shall be substituted, namely:—

“(g) “net annual income”, in relation to a wakf, means the net annual income determined in accordance with the provisions of the *Explanations* to sub-section (1) of section 46 ;”

(iv) after clause (k), the following clauses shall be inserted, namely:—

“(ka) “Survey Commissioner” means the Survey Commissioner of Wakfs appointed under sub-section (1) of section 4 and includes any additional or assistant survey commissioner of Wakfs ;

“(kb) “Tribunal”, in relation to any area, means the Tribunal, constituted under sub-section (1) of section 55, having jurisdiction in relation to that area ;”

(v) in clause (l).—

(a) in the opening portion, after the words “person professing Islam”, the words, “or any other person” shall be inserted ;

(b) in sub-clause (i), after the words “a wakf by user”, the words “but such wakf shall not cease to be a wakf by reason only of the user having ceased irrespective of the period of such cesser” shall be inserted ;

(c) in sub-clause (ii), after the words “mashrut-ul-khidmat”, the words, “muafies, khairati, qazi services, madad-mash” shall be inserted ;

(d) for sub-clause (iii), the following sub-clause shall be substituted, namely:—

“(iii) awakf-alal-aulad ;”

(e) to clause (l), the following proviso shall be added, namely:—

“Provided that in the case of a dedication by a person not professing Islam, the Wakf shall be void if, on the death of such person, any objection to such dedication is raised by one or more of his legal representatives ;”

(vi) after clause (l), the following clause shall be inserted, namely:—

“(la) “Wakf Commissioner” means the Wakf Commissioner appointed under sub-section (1) of section 21 ;”

4. *Amendment of section 4.*—In section 4 of the principal Act,—

(i) for the word “Commissioner”, wherever it occurs, the words “Survey Commissioner” shall be substituted;

(ii) for the word "commissioners", wherever it occurs, the words "Survey Commissioners" shall be substituted;

(iii) after sub-section (5), the following sub-section shall be inserted, namely:—

"(6) The State Government may, by notification in the Official Gazette, direct the Survey Commissioner to make a second or subsequent survey of wakf properties in the State and the provisions of sub-sections (2), (3), (4) and (5) shall apply to such survey as they apply to a survey directed under sub-section (1) :

Provided, that no such second or subsequent survey shall be made until the expiry of a period of twenty years from the date on which the report in relation to the immediately previous survey was submitted under sub-section (3)."

5. *Amendment of section 5.*—In section 5 of the principal Act, in sub-section (2), for the words "existing in the State, or as the case may be, the part of the State", the words "in the State, or as the case may be, the part of the State, whether in existence at the commencement of this Act or coming into existence thereafter," shall be, and shall be deemed always to have been, substituted.

6. *Amendment of section 6.*—In section 6 of the principal Act,—

(a) in sub-section (1), the following *Explanation* shall be inserted at the end, namely:—

Explanation.—For the purposes of this section and section 6A, the expression "any person interested therein", occurring in sub-section (1) of this section and in sub-section (1) of section 6A, shall, in relation to any property specified as wakf property in a list of wakfs published, under sub-section (2) of section 5, after the commencement of the Wakf (Amendment) Act, 1984, shall include also every person who, though not interested in the wakf concerned, is interested in such property and to whom a reasonable opportunity had been afforded to represent his case by notice served on him in that behalf during the course of the relevant inquiry under section 4.

(b) in sub-section (3), for the word "Commissioner", the words "Survey Commissioner" shall be substituted ;

(c) after sub-section (4), the following sub-section shall be inserted, namely:—

"(5) On and from the commencement of the Wakf (Amendment) Act, 1984 in a state or no suit other legal proceeding shall be instituted or commenced in a civil court in that State in relation to any question referred to in sub-section (1)."

7. *Insertion of new section 6A.*—After section 6 of the principal Act, the following section shall be inserted, namely:—

"6A. *Power of Tribunal to determine disputes regarding wakfs.*—(1) If, after the commencement of the Wakf (Amendment) Act, 1984, any question arises whether a particular property specified as wakf property in a list of wakfs published under sub-section (2) of section 5 is wakf property or not, or whether a wakf specified in such list is a Shia Wakf or a Sunni Wakf, the Board or the mutawalli of the wakf, or any person interested therein, may apply to the Tribunal having jurisdiction in relation to such property, for the decision of the question and the decision of the Tribunal in respect of such matter shall be final :

Provided that—

(a) in the case of the list of wakfs relating to any part of the State and published or purporting to have been published after the commencement of the Wakf (Amendment) Act, 1984, no such application shall be entertained after the expiry of one year from the date of publication of the list of wakfs under sub-section (2) of section 5; and

(b) in the case of the list of wakfs relating to any part of the State and published or purporting to have been published at any time within a period of one year immediately preceding the commencement of the Wakf (Amendment) Act, 1984, such an application may be entertained by the Tribunal within the period of one year from such commencement :

Provided further that where any such question has been heard and finally decided by a civil court in a suit instituted before such commencement, the Tribunal shall not re-open such question.

(2) Except where the Tribunal has no jurisdiction by reason of the provisions of sub-section (5) no proceeding under this section in respect of any wakf shall be stayed by any court, tribunal or other authority by reason only of the pendency of any suit, application or of any appeal or other proceeding arising out of any such suit, application, appeal or other proceeding.

(3) The Wakf Commissioner shall not be made a party to any application under sub-section (1).

(4) The list of wakfs published under sub-section (2) of section 5, and where any such list is modified in pursuance of a decision of the Tribunal under sub-section (1), the list as so modified, shall be final.

(5) The Tribunal shall not have jurisdiction to determine any matter which is the subject-matter of any suit or proceeding instituted or commenced in a civil court under sub-section (1) of section 6, before the commencement of the Wakf (Amendment) Act, 1984, or which is the subject-matter of any appeal from the decree passed before such commencement in any such suit or proceeding or of any application for revision or review arising out of such suit, proceeding or appeal, as the case may be."

8. *Amendment of section 7.*—In sub-section (1) of section 7 of the principal Act, for the word "Commissioner", the words "Survey Commissioner" shall be substituted.

9. *Amendment of section 8D.*—In sub-section (3) of section 8D of the principal Act, for the words "in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following", the words "in

two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid" shall be substituted.

10. Amendment of section 9.—After sub-section (2) of section 9 of the principal Act, the following sub-section shall be inserted, namely:—

"(3) It shall be lawful for the Board to so re-organise its administrative set-up in the State as to ensure better administration of the wakfs in the State."

11. Substitution of section 10.—For section 10 of the principal Act, the following section shall be substituted, namely:—

10. Composition of the Board.—(1) The Board shall, in the case of a State, as also in the case of the Union Territory of Delhi, consist of—

(a) four members, of whom two shall be elected from among themselves by such of the Muslim members of Parliament as have been elected thereto from that State or the Union territory of Delhi, as the case may be, and the other two shall be elected from among themselves by such of the Muslim members of the State Legislature as have been elected thereto, and such election shall be held in accordance with the system of proportional representation by means of a single transferable vote in such manner as may be prescribed:

Provided that where the number of Muslim elected to Parliament from a State, or, as the case may be, the Union territory of Delhi, is only one, or where the number of Muslim members elected to a State Legislature is only one, the Muslim member who has been elected to Parliament from the State or the Union territory of Delhi, as the case may be, and the Muslim member who has been elected to the State Legislature, shall become, by virtue of such election, member of the Board and the remainder of the membership of the Board under this clause shall be filled up by the State Government by appointing suitable persons as members of the Board:

Provided further that where no Muslim has been elected from the State or the Union territory of Delhi to Parliament, or, as the case may be, to the State Legislature, the vacancy in the membership of the Board under this clause shall be filled up by the State Government by appointing suitable persons as members of the Board:

Provided also that in determining the number of Shia members or Sunni members of the Board, the State Government shall have regard to the number and value of the Shia Wakfs and Sunni Wakfs to be administered by the Board and the appointment of the members shall be made, so far as may be, in accordance with such determination;

(b) five members, to be appointed by the State Government, of whom—

- (i) one shall be a Shia in the States where there is no Shia Board;
- (ii) one shall be a person who, in the opinion of that Government, is a recognised scholar in Islamic theology;
- (iii) one shall be appointed from among the members of any Muslim organisation in the State; and
- (iv) two shall be persons possessing administrative experience and knowledge of laws;

(c) one mutawalli, to be appointed by the State Government; and

(d) the Wakf Commissioner, who shall be, *ex-officio*, Member-Secretary of the Board.

Explanation.—The references to "State Legislature" in this sub-section shall be construed in relation to the Union territory of Delhi as references to the Metropolitan Council of Delhi constituted under section 3 of the Delhi Administration Act, 1966 (19 of 1966).

(2) The Board shall in the case of a Union territory other than the Union territory of Delhi, consist of—

(a) five members, to be appointed by the Central Government from amongst the categories of persons specified in clause (b) of sub-section (1), and, for this purpose, the provisions of the said clause shall apply to the composition of the Board under this sub-section as they apply to the composition of the Board under sub-section (1);

(b) one mutawalli to be appointed by the Central Government; and

(c) the Wakf Commissioner, who shall be, *ex-officio*, Member-Secretary of the Board.

(3) Whenever the Board is constituted or reconstituted, as the case may be, the members of the Board present at a meeting convened for the purpose by the Wakf Commissioner, shall elect one from amongst themselves (other than the Wakf Commissioner) as the Chairman of the Board.

12. Omission of Section 11.—Section 11 of the principal Act shall be omitted.

13. Amendment of section 13.—In section 13 of the principal Act, for clauses (d) and (e), the following clause shall be substituted, namely:—

"(d) if he has been convicted of an offence involving moral turpitude, and such conviction has not been reversed or he has not been granted full pardon in respect of such offence;

(e) if he has been, on a previous occasion,—

(i) removed from his office as a member or as a mutawalli, or

(ii) removed by an order of a competent court or tribunal from any position of trust, either on mismanagement or for corruption."

14. *Amendment of section 15.*—In section 15 for the principal Act,—

(a) in sub-section (1),—

(i) for the words “general superintendence of all wakfs in a State shall vest”, the words “general superintendence of all wakfs in a State in relation to all matters, except those which are expressly required by this Act to be dealt with by the Wakf Commissioner, shall vest” shall be substituted;

(ii) after the proviso, the following *Explanation* shall be inserted, namely:—

‘*Explanation.*—For the removal of doubts it is hereby declared that in this sub-section, “wakf” includes a wakf in relation to which any scheme has been made by any court of law, whether before or after the commencement of the Wakf (Amendment) Act, 1984.’;

(b) in sub-section (2),—

(i) for clause (b), the following clause shall be substituted, namely:—

“(b) to ensure that the income and other property of a wakf are applied to the objects and for the purposes for which that wakf was created or intended;”;

(ii) clause (d) shall be omitted;

(iii) in sub-clause (iii) of clause (e), for the words “or as nearly as practicable similar, to the original object”, the words “or nearly similar, to the original object, or for the benefit of the poor or for the purpose of promotion of knowledge and learning in the Muslim community” shall be substituted;

(iv) in the *Explanation*, for the words, “shall be exercised”, the words “shall be exercised under sub-section (1)” shall be substituted;

(v) clauses (f) and (h) shall be omitted;

(vi) in clause (j), for the words, figures and letter “or lease, as required by section 36A”, the words “or lease, in accordance with the provisions of this Act” shall be substituted;

(vii) Clauses (l), (m) and (n) shall be omitted;

(c) in sub-section (3),—

(i) the words, brackets, letter and figure “settled any scheme of management under clause (d) of sub-section (2) or” shall be omitted;

(ii) for the words “or affected by such settlement or direction”, the words “or affected by such direction” shall be substituted;

(iii) for the words “setting aside such settlement or directions”, the words “setting aside such directions” shall be substituted.

15. *Insertion of new sections 15A, 15B, 15C and 15D.*—After section 15 of the principal Act, the following sections shall be inserted, namely:—

“15A. *Power to develop urban land which is wakf property.*—(1) Where the Board is of opinion that any urban land which is wakf property, and which is not in the possession of the mutawalli of the wakf, and in relation to which no process of acquisition has been commenced under any law for the time being in force relating to the acquisition of land, and which has not vested in the State under any law for the time being in force relating to land reforms (hereinafter referred to as the specified urban land) offers a potential for the development of such land for land uses, such as, the establishment of any shopping centre or market or for the construction of residential flats or for any other commercial uses and that the proposed development of the use of such land is in accordance with any land uses specified, under any law for the time being in force, in any Master Plan or other Plan, if any, prepared by any local or other statutory authority in relation to the area in which such specified urban land is situate, it may make an application to the State Government specifying therein, the nature of the work which is intended to be executed for the development or the use of such land.

(2) On receipt of any application made under sub-section (1), the State Government shall issue a notice requiring—

(a) the local or other statutory authority to state, whether the intended development of the use of the specified urban land is in accordance with the land uses specified in the Master Plan or other Plan which has been prepared by such authority for the area in which such specified urban land is situate and whether any project for the development of the land uses of the specified urban land has been, or is proposed to be, undertaken by such authority, and where no such Plan has been prepared, whether such authority has any objection to the proposed development, by the Board, of the specified urban land for the land uses specified in sub-section (1);

(b) the Director General of Archaeology to state whether the development of the specified urban land for the land uses specified in sub-section (1) is likely to affect prejudicially any ancient or protected monument within the meaning of the Ancient Monuments Preservation Act, 1904 (7 of 1904), or any ancient monument or archaeological site and remains which have been declared under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958) to be of national importance;

(c) the mutawalli of the concerned wakf to state whether he has any objection to the proposed development of the specified urban land for the land uses specified, in sub-section (1), and if not, whether he is ready

and willing to carry out the proposed work for the development of the specified urban land for such land uses within the time specified in the notice, and whether he has the financial and other means to do so.

(3) The notice referred to in sub-section (2) shall specify the time, not being less than sixty days, within which a reply thereto is to be given.

(4) If no reply is received to the notice issued under sub-section (2) or if after considering such replies as may be received in pursuance of the said notice and if, after making such inquiry as it may think fit, the State Government is satisfied that—

- (a) the specified urban land is wakf property and is not in the possession of the mutawalli of the wakf and no process of acquisition of such land has been commenced under any law for the time being in force relating to the acquisition of land and that such land has not vested in the State under any law for the time being in force relating to land reforms ;
- (b) no project for the development of the land uses of the specified urban land has been, or is proposed to be undertaken by the local or other statutory authority ;
- (c) the proposed work for the development of the specified urban land for the land uses specified in sub-section (1) is conducive to the interests of the wakf and is in the public interest ;
- (d) the proposed development of the specified urban land for such land uses is in accordance with the land uses specified in the Master Plan or other Plan as aforesaid, or, where there is no such Plan, has been approved by the local or other statutory authority aforesaid ;
- (e) the proposed development of the specified urban land for such land uses is not likely to prejudicially affect any ancient monument within the meaning of the Ancient Monuments Preservation Act, 1904 (7 of 1904), or any ancient monument or archaeological site and remains which have been declared to be of national importance under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958); and
- (f) the mutawalli does not have any objection to the proposed development of land uses and is either unwilling to execute, or if willing, does not have the means of executing, the proposed work within the time specified in the notice issued to him.

the State Government may take over the management of the specified urban land for such period, not being more than five years or such longer period not being more than fifteen years in the aggregate, as the State Government may, from time to time, specify by notification in the Official Gazette, and shall thereafter, entrust the management of the specified urban land to the Board, for the purposes of making such development of the land uses as are specified in sub-section (1), and may also authorise the Board to remove, from the specified urban land, any building or structure standing thereon, the removal of which is, in the opinion of the State Government, necessary for the purpose of executing any work for the development of the land uses of such specified urban land :

Provided that the Board shall, during the course of management of the specified urban land, carry on work for the development of such land for the land uses specified in sub-section (1), under the direction, control and supervision of the State Government :

Provided further that the High Court may, on the application of any person aggrieved by any order made by the State Government under this sub-section call for the records of the case from the State Government for the purpose of satisfying itself as to the correctness, legality or propriety of the order and may, after examining the records, pass such orders as it may think fit.

Explanation.—For the purposes of this section, specified urban land shall include all rights, leaseholds, powers, authorities and privileges, and shall also include all buildings, workshops and all other rights and interests arising out of the specified urban land, as were, immediately before the date on which management thereof is taken over by the State Government (hereinafter referred to as the appointed day) in the ownership, possession, power or control of the mutawalli of the wakf, and all books of accounts, registers and all the documents of whatever nature relating thereto.

(5) Any contract, whether express or implied, or other arrangement in so far as it relates to the management of the specified urban land and in force immediately before the appointed day, shall be deemed to have become terminated on the appointed day.

(6) All persons in charge of the management of the specified urban land, immediately before the appointed day, shall, on and from the appointed day, be deemed to have vacated their offices as persons in charge of the management thereof.

(7) Any person who, on the appointed day, has in his possession or under his control, any books, papers or other documents relating to the management of the specified urban land, shall deliver them to the Board or such person as the Board may authorise in this behalf.

(8) For every year or part thereof during which the Board remaining in charge of the management of the specified urban land, there shall be paid by the Board annually to the mutawalli of the wakf, an amount equal to the average net annual income derived by the wakf from the specified urban land during the period of three years immediately preceding the appointed day and the amount so paid shall be duly credited to the account of the wakf to which the specified urban land pertains.

(9) The Board may execute any work for the development of the land uses of the specified urban land from its own finances, but where its own finances are not sufficient, it shall be lawful for the Board to raise the necessary finances on the security of the specified urban land.

(10) Any transfer of the specified urban land, or any contract or agreement relating thereto, made within a period of six months immediately preceding the date of service of the notice on the mutawalli under sub-section (2), shall, unless it was made in good faith and for valuable consideration in the due course of management of the specified urban land, be void.

(11) Subject to the provisions of sub-section (4), the Board shall continue to control the management of the specified urban land till such time as all the expenses incurred by it under this section for the development of the land for the land uses specified in sub-section (1), together with interest due thereon, and all expenses incurred for the maintenance of such work or development and other legitimate charges incurred in relation to the development of the specified urban land for such land uses are fully recovered from the income derived by the Board from such land or from any shopping centre, market, residential flats raised thereon or from other commercial uses of the specified urban land.

(12) The Board shall, after the recovery of all expenses and charges referred to in sub-section (11), or upon the expiry of the period specified under sub-section (4), whichever is earlier, restore to the person in charge of the management of the specified urban land immediately before the appointed day, the management of such land, as so developed, together with the shopping centres, markets, residential flats and other structures, if any, constructed thereon.

(13) The provisions of sub-sections (1), (2), (3) and (4) shall, as far as may be, apply to the proposal for the development of the land uses of any urban wakf property which is in the possession of the mutawalli of the wakf, subject to the modification that instead of taking over the management of such property, the State Government may, by order, remove the mutawalli from possession thereof and place the same in the possession of the Board and authorise the Board to carry out the development of such land uses of the urban wakf property as are specified in sub-section (1).

(14) Where, as a result of the development of any specified urban land, or any urban land referred to in sub-section (13), for the land uses specified in sub-section (1), there is a substantial increase in the income of the wakf and the quantum of the increase is such that the whole of such increased income is not needed for the purposes of the wakf, the Board may make a direction in accordance with the provisions of clause (e) of sub-section (2) of section 15, as to how such surplus income shall be utilised and submit such direction to the State Government for approval, and, thereupon, such surplus income shall be utilised for such purposes as may be specified in the direction as approved by the State Government.

15B. *Power of inspection of wakf Commissioner or persons authorised by him.*—(1) With a view to examining whether, by reason of any failure or negligence on the part of a mutawalli in the performance of his executive or administrative duties, any loss or damage has been caused to any wakf or wakf property, the Wakf Commissioner, or any other person authorised by him in writing in this behalf, may inspect all movable and immovable properties which are wakf properties, and all records, correspondence, plans, accounts and other documents relating thereto :

Provided that such inspection shall be made at least once in two years, in relation to every wakf having a gross annual income exceeding twelve thousand rupees.

(2) Whenever any such inspection as is referred to in sub-section (1) is made, the concerned mutawalli and all officers and other employees working under him, and every person connected with the administration of the wakf, shall extend to the person making such inspection, all such assistance and facilities as may be necessary and reasonably required by him to carry out such inspection, and shall also produce for inspection any movable property or documents relating to the wakf as may be called for by the person making the inspection and furnish to him such information relating to the wakf as may be required by him.

(3) Where, after any such inspection, it appears that the concerned mutawalli or any officer or other employee who is working under him or had been working under him in the past, had misappropriated, misapplied, or fraudulently retained, any money or other wakf property, or had incurred irregular, unauthorised or improper expenditure from the funds of the wakf, the Wakf Commissioner may, after giving the mutawalli or the person concerned a reasonable opportunity of showing cause why an order for the recovery of the amount or property aforesaid should not be passed against him, and after considering such explanation, if any, as such person may furnish, determine the amount or the property which has been misappropriated, misapplied or fraudulently retained, or the amount of the irregular, unauthorised or improper expenditure incurred by such person, and make an order directing such person to make payment of the amount so determined from his personal funds, and not from the funds of the wakf, or, as the case may be, to restore the property aforesaid to the wakf, within such time as may be specified in the order.

(4) A mutawalli or other person aggrieved by such order may, within thirty days of the receipt by him of the order, appeal to the Tribunal :

Provided that no such appeal shall be entertained by the Tribunal unless the appellant first deposits with the Wakf Commissioner the amount which has been determined under sub-section (3) as being payable by the appellant and the Tribunal shall have no power to make any order staying, pending the disposal of the appeal, the operation of the order made by the Wakf Commissioner under sub-section (3).

(5) The Tribunal, after taking such evidence as it may think fit, may confirm, reverse or modify the order made by the Wakf Commissioner under sub-section (3) or may remit, either in whole or in part, the amount specified in such order and may make such orders as to costs as it may think appropriate in the circumstances of the case.

(6) The order made by the Tribunal under sub-section (5) shall be final.

15C. *Recovery of the amount determined under section 15B.*—Where any mutawalli or other person who has been ordered, whether under sub-section (3) or sub-section (5) of section 15B, to make any payment or to restore the possession of any property, omits or fails to make such payment or restoration within the time specified in

such order, the Wakf Commissioner shall take such steps as he may think fit for the recovery of possession of the property aforesaid and shall also send a certificate to the Collector of the district in which the property of such mutawalli or other person is situate, stating therein the amount that has been determined by him or by the Tribunal, as the case may be, under section 15B, as being payable by such mutawalli or other person, and, thereupon, the Collector shall recover the amount specified in such certificate as if it were an arrear of land revenue and on the recovery of such amount, pay the same to the Wakf Commissioner, who shall, on receipt thereof, credit the amount to the funds of the concerned wakf.

15D. Conditional attachment by Tribunal.—(1) Where the Wakf Commissioner is satisfied that the mutawalli or any other person who has been ordered under sub-section (3) or sub-section (5) of section 15B to make any payment, with intent to defeat or delay the execution of the said order,—

- (a) is about to dispose of the whole or any part of his property ; or
- (b) is about to remove the whole or any part of his property from the jurisdiction of the Wakf Commissioner,

he may apply to the Tribunal for the conditional attachment of the said property or such part thereof as he may think necessary.

(2) The Wakf Commissioner shall, unless the Tribunal otherwise directs, specify in the application the property required to be attached and the estimated value thereof.

(3) The Tribunal may direct the mutawalli or the person concerned as the case may be within a time to be fixed by it, either to furnish security, in such sum as may be specified in the order, to produce and place at the disposal of the Tribunal, when required, the said property or the value of the same or such portion thereof as may be sufficient to satisfy the amount specified in the certificate referred to in section 15C, or to appear and show cause why he should not furnish such security.

(4) The Tribunal may also in the order direct the conditional attachment of the whole or any portion of the property so specified.

(5) Every attachment made under this section shall be made in accordance with the provisions of the Code of Civil Procedure, 1908 (5 of 1908), as if it were an order for attachment made under the provision of the said Code.

(6) If any attachment is made without complying with the provision of sub-section (3), such attachment shall be void."

16. Amendment of section 16.—In sub-section (2) of section 16 of the principal Act, after the words "functions and duties", the words "and the term of office" shall be inserted.

17. Substitution of section 21.—For section 21 of the principal Act, the following section shall be substituted, namely;—

"**21. Appointment of Wakf Commissioner and his term of office, etc.**—(1) There shall be in each State a Wakf Commissioner who shall be the Chief Executive Officer of the Board.

(2) The Wakf Commissioner shall be a person professing Islam and shall be appointed by the State Government by notification in the Official Gazette ;

Provided that in the case of Union territories (including the Union territory of Delhi), the Central Government may, by notification in the Official Gazette, appoint one person to be the Wakf Commissioner for two or more Union territories, irrespective of whether or not any common Board has been established for such Union territories :

Provided further that where a common Board has been established under section 66F for two or more States, the power to appoint a Wakf Commissioner for such States shall vest in the Central Government and the Wakf Commissioner, appointed by the Central Government, as far as may be, in accordance with the provisions of this section, shall function as the Wakf Commissioner in respect of each of the States for which such common Board has been established.

(3) The Wakf Commissioner shall be appointed from amongst such persons as are holding posts in the Senior Scale of Class I of the Judicial Service of the State or posts in the Senior Scale of any Administrative Service in the State:

Provided that no person shall be so appointed unless he has held the post of a Deputy Secretary to the Government of the State, or any other post of an equivalent rank, for a period of not less than five years :

Provided further that if in any State, no person, professing Islam, who has held the post of Deputy Secretary to the Government of the State or any other post of an equivalent rank for a period of five years, or more, is available, it shall be lawful for the State Government to relax the conditions with regard to the said status or rank, as the case may be, and the period for which a post of such status or rank should have been held by a person to become eligible for such appointment.

(4) The Wakf Commissioner shall hold office for such period, not exceeding five years, as may be specified in the notification whereby he is appointed, or until he attains the age of superannuation whether under the rules for the time being in force in relation to the members of the Service to which he belongs, or in relation to the post which he was holding immediately before his appointment as the Wakf Commissioner, whichever is earlier, and shall, subject to the provisions of this sub-section, be eligible for re-appointment for a like term.

(5) The Wakf Commissioner shall not, during his term of office as such, hold the office of a mutawalli of any wakf and shall devote his whole-time and attention to his duties under this Act.

(6) The Wakf Commissioner shall receive such monthly salary, not being less than the salary drawn by him immediately before the date of his appointment as Wakf Commissioner, as may be fixed by the State Government, and shall hold such office with the same rights and privileges as to pension, gratuity, provident fund and other matters as would have been admissible to him if he had not been so appointed and shall continue to do so until his appointment as Wakf Commissioner is duly terminated or until the conditions of his service are duly altered by the State Government.

(7) The State Government may, after consultation with the Board, grant leave of absence to the Wakf Commissioner.

(8) The salaries and allowances to be drawn by the Wakf Commissioner during the period of his leave of absence shall be specified by the State Government :

Provided that such salaries and allowances shall not be less than the salaries and allowances which he would have drawn had he not been appointed as the Wakf Commissioner.

(9) Whenever leave of absence is granted to the Wakf Commissioner, the State Government may appoint any other person who fulfils the conditions specified in sub-section (1) to act as the Wakf Commissioner during the period of such leave, and the salaries and allowances of the person so appointed shall be fixed by the State Government, and such salaries and allowances shall not be less than the salaries and allowances which he would have drawn had he not been so appointed.

(10) The Wakf Commissioner may resign his office by writing under his own hand addressed to the State Government.

(11) The State Government may give directions to any Wakf Commissioner as to the carry into execution in the State of any of the provisions of this Act or of any order or direction made thereunder and may also call for from the Wakf Commissioner such information as it may think fit."

18. Insertion of new sections 21A, 21B, 21C, 21D, 21E and 21F.—After section 21 of the principal Act, the following sections shall be inserted, namely:—

"21A. Removal of the Wakf Commissioner.—(1) If at any time it appears to the State Government that the Wakf Commissioner is unsuitable for his office or has been guilty of misconduct or neglect of duties, which renders his removal from the office of Wakf Commissioner necessary in the public interest, the State Government may, by notification in the Official Gazette, remove him from such office:

Provided that the Wakf Commissioner shall not be so removed from his office as such except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

(2) Whenever the Wakf Commissioner is removed, or resigns, from his office as Wakf Commissioner, the State Government shall appoint a suitable person who fulfils the conditions specified in sub-section (1) of section 21 as the Wakf Commissioner.

21B. Powers to make appointments, etc., to vest in the Wakf Commissioner.—(1) The Wakf Commissioner and the Board shall have the assistance of such number of officers and other employees as may be necessary for the efficient performance of his or its functions under this Act.

(2) The powers of appointment of officers and other employees of the Board and of promoting and granting leave to such officers and other employees and of reducing them in rank or suspending or dismissing them for misconduct shall vest in the Wakf Commissioner :

Provided that the Wakf Commissioner shall not appoint any person to a post carrying minimum monthly salary (exclusive of allowances) exceeding one thousand rupees per month except with the previous approval of the Board :

Provided further that where any officer or other employee holding a post carrying a minimum monthly salary (excluding allowances) exceeding five hundred rupees is reduced in rank or suspended or dismissed by the Wakf Commissioner, such officer or other employee may, within thirty days from the date of the order, prefer an appeal to the Board against the order of the Wakf Commissioner and the decision of the Board shall be final.

21C. Duties and other powers of the Wakf Commissioner.—(1) Subject to the provisions of this Act and of the rules made thereunder, the functions of the Wakf Commissioner shall include—

- (a) investigating the nature and extent of wakfs and wakf properties, and causing whenever necessary, an inventory of wakf properties and calling, from time to time for accounts, returns and informations from mutawallis
- (b) inspecting or causing the making of inspection of, wakf properties, accounts, records or deeds or documents relating thereto;
- (c) doing, generally, all such acts as may be necessary for the due control, maintenance and administration of wakfs.

(2) In exercising his powers under this Act in respect of any wakf, the Wakf Commissioner shall act in conformity with the directions given by the wakf in the deed of wakf, the purpose of the wakf and such usages and customs of the wakf as are sanctioned by Muslim law.

(3) Save as otherwise expressly provided in this Act, the Wakf Commissioner shall exercise such powers and perform such duties as may be assigned to him or delegated to him by the Board under section 22.

21D. Power of the Wakf Commissioner not to implement orders or resolutions of the Board in certain cases.—Where the Wakf Commissioner considers that an order or resolution passed by the Board—

- (a) has not been passed in accordance with law ; or
- (b) is in excess of, or is an abuse of, the powers conferred on the Board by or under this Act or by any other law; or
- (c) if implemented, is likely to—
 - (i) cause financial loss to the Board or to the concerned Wakf or to the wakfs generally, or
 - (ii) cause danger to human life, health or safety, or
 - (iii) lead to a riot or breach of the peace, or
- (d) is not beneficial to the Board or to any wakf or to wakfs generally,

he may, without implementing such order or resolution place the matter before the State Government along with a note pointing out the objections which he has to the order or resolution, as the case may be, and the orders of the State Government thereon shall be final and binding on the Board and the Wakf Commissioner.

21E. Delegation of powers by the Wakf Commissioner.—(1) The Wakf Commissioner may delegate such of the administrative, accounting or auditing powers conferred on him by this Act, to the Area Committee, established by the Board, as may be necessary, and may, at anytime, revoke the delegation so made by him.

(2) Subject to the control of the Wakf Commissioner and general or special directions given or imposed by him, the Area Committee authorised by the Wakf Commissioner to exercise any power, may exercise these powers in the same manner and to the same extent as if they have been conferred on that Committee directly by this Act and not by way of delegation.

21F. Construction of reference with regard to exercise of powers by the Wakf Commissioner.—Any reference in this Act to the exercise of any power by the Wakf Commissioner shall be construed as a reference to the exercise by him of those powers which he is empowered by or under this Act to exercise."

19. Substitution of section 22.—For section 22 of the principal Act, the following section shall be substituted, namely;—

"22. Delegation of powers by the Board.—The Board may, from time to time, by an order, authorise the Wakf Commissioner to exercise and perform, subject to the control of the Board, such of the powers and duties conferred or imposed on the Board by or under this Act, as may be specified in such order, and may at any time revoke the authorisation so made by it, and where any such authorisation is made, the Wakf Commissioner may exercise those powers and duties in the same manner and to the same extent as if they have been conferred on him directly by this Act and not by way of authorisation."

20. Insertion of new sections 22A and 22B.—After section 22 of the principal Act, the following sections shall be inserted, namely;—

"22A. Wakf Commissioner may exercise powers through Collectors, etc.,—Subject to the provisions of this Act and of the rules made thereunder, the Wakf Commissioner may exercise all or any of the powers conferred on him by or under this Act, through the Commissioner of the Division or the Collector of the district in which the concerned wakf property is situate, or through any other person whom he may appoint for such purpose, and may, from time to time delegate any of his powers to any such Commissioner of the Division or Collector or any other person and may at any time revoke the delegation so made by him, and where any such delegation of powers is made by the Wakf Commissioner, the person to whom such delegation is made may exercise those powers in the same manner and to the same extent as if they have been conferred on him directly by this Act and not by way of delegation.

22B. Powers of Wakf Commissioner to inspect records, registers, etc.—The Wakf Commissioner or any officer of the Board duly authorised by him in this behalf shall, subject to such conditions and restrictions as may be prescribed and subject to the payment of such fees as may be leviable under any law for the time being in force, be entitled at all reasonable time to inspect, in any public office, any records, registers or other documents relating to a wakf or movable or immovable properties which are wakf properties or are claimed to be wakf properties."

21. Amendment of section 23.—In section 23 of the principal Act, —

- (a) in sub-section (1), for the words "The Board may allow inspection of its proceedings or other records in its custody", the words "The Wakf Commissioner may allow inspection of the proceedings of the Board or other records in his custody" shall be substituted ;
- (b) in sub-section (2), for the words "Secretary of the Board", the words "Wakf Commissioner" shall be substituted ;
- (c) in sub-section (3),—
 - (i) for the word "Secretary", the words "Wakf Commissioner" shall be substituted ;
 - (ii) for the words "authorised in this behalf by the Board", the words "authorised in this behalf by the Wakf Commissioner" shall be substituted.

22. Amendment of section 25.—In section 25 of the principal Act,—

- (a) for the word "Board", wherever it occurs, the words "Wakf Commissioner" shall be substituted ;
- (b) in sub-section (6), for the words "it may consider", the words "he may consider" shall be substituted ;
- (c) in sub-section (7), for the words "as it thinks fit", the words "as he thinks fit" shall be substituted ;

(d) after sub-section (8), the following sub-section shall be inserted, namely,—

“(9) Every wakf registered under this section before the commencement of the Wakf (Amendment) Act, 1984 shall be deemed to have been registered on such commencement, at the office of the Wakf Commissioner.

(10) Every application for registration under this section pending immediately before the commencement of the Wakf (Amendment) Act, 1984 before the Board shall, on such commencement, stand transferred to the Wakf Commissioner and the Wakf Commissioner shall deal with such application as if it were an application pending before him.”

23. Amendment of section 26.—Section 26 of the principal Act shall be renumbered as sub-section (1) of that section, and

(a) in sub-section (1) as so renumbered, for the word “Board”, the words “Wakf Commissioner” shall be substituted ;

(b) after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:—

“(2) The register of wakfs maintained under this section immediately before the commencement of the Wakf (Amendment) Act, 1984 shall be deemed, on such commencement, to be the register maintained by the Wakf Commissioner under sub-section (1).”

24. Insertion of new sections 26A and 26B.—After section 26 of the principal Act, the following sections shall be inserted, namely :—

“**26A. Power of Wakf Commissioner to appoint Executive Officers.**—(1) Notwithstanding anything contained in this Act, the Wakf Commissioner may, if he is of opinion that it is necessary so to do in the interest of wakfs, appoint, subject to such conditions as may be prescribed, Executive Officers for every wakf having a gross annual income of not less than fifty thousand rupees.

(2) Every Executive Officer appointed under sub-section (1) shall exercise such powers and discharge such duties as pertain only to the administration of the property of the wakf for which he has been appointed and shall exercise those powers and discharge those duties under the direction, control and supervision of the Wakf Commissioner :

Provided that the Executive Officer who is appointed for a wakf having a gross annual income of not less than sixty thousand rupees, shall ensure that the budget of the wakf is submitted, the accounts of the wakf are regularly maintained, and the yearly statement of accounts are submitted positively within such time as the Wakf Commissioner may specify.

(3) While exercising his powers and discharging his functions under sub-section (2), the Executive Officer shall not interfere with any religious duties or any usage or custom of the wakf sanctioned by the Muslim law.

(4) The salaries and allowances of the Executive Officer shall be fixed by the Wakf Commissioner in accordance with the rules made in this behalf under section 67 and in fixing the quantum of such salary the Wakf Commissioner shall have due regard to the income of the wakf, the extent and nature of the duties of the Executive Officer and shall also ensure that the amount of such salaries and allowances are not disproportionate to the income of the wakf and do not operate as an unnecessary financial burden on it.

(5) The salaries and allowances of the Executive Officer shall be paid from the funds of the concerned wakf.

(6) The Wakf Commissioner may, for good and sufficient reasons, and after giving to the Executive Officer a reasonable opportunity of being heard, suspend, remove or dismiss him from his post as such Executive Officer.

(7) Any Executive Officer who is aggrieved by any order of removal or dismissal made under sub-section (6) may, within thirty days from the date of communication of the order to him, prefer an appeal against the order to the Tribunal and the Tribunal may, after considering such representation as the Wakf Commissioner may make in the matter, and after giving a reasonable opportunity to the Executive Officer of being heard, confirm, modify or reverse the order.

(8) For the removal of doubts, it is hereby declared that—

(a) a person may be appointed as the Executive Officer under this section on a whole time basis or on a part time basis ;

(b) a person may be appointed as an Executive Officer in an honorary capacity, that is to say, without payment of salary or, as the case may be, without payment of salary and of any allowances ;

(c) the same person may be appointed as an Executive Officer under this section for two or more wakfs, and, where the said person is not appointed in an honorary capacity, the salary and allowances payable to the person so appointed may be paid from the funds of the concerned wakfs, in such manner and in such proportion as the Wakf Commissioner may determine.

26B. Powers of the Wakf Commissioner in relation to wakfs which have ceased to exist.—(1) The Wakf Commissioner shall, if he is satisfied that the objects or any part thereof, of a wakf have ceased to exist, whether such cesser took place before or after the commencement of the Wakf (Amendment) Act, 1984, hold an inquiry, in the prescribed manner, to ascertain the properties and funds pertaining to such wakf and after doing so, shall pass an order—

(a) specifying the property and funds pertaining to the wakf and for the recovery of such property or funds so specified ;

(b) directing that any property or funds pertaining to the wakf which have been recovered shall be applied or utilised for the renovation of any wakf property and where there is no need for making any such renovation or where utilisation of the funds for such renovation is not possible, be appropriated, after obtaining the approval of the Board, to any of the purposes specified in sub-clause (iii) of clause (e) of sub-section (2) of section 15.

(2) The Wakf Commissioner may, if he has any reason to believe that any building or other place which was being used for religious purpose or instruction or for charity has, whether before or after the commencement of the Wakf (Amendment) Act, 1984, ceased to be used for that purpose, make an application to the Tribunal for an order directing the recovery of possession of such building or other place.

(3) The Tribunal may, if it is satisfied, after making such inquiry as it may think fit, that such building or other place—

(a) is wakf property ;

(b) has not been acquired under any law for the time being in force relating to acquisition of land or is not under any process of acquisition under any such law, or has not vested in the State Government under any law for the time being in force relating to land reforms; and

(c) is not in the occupation of any person who has been authorised by or under any law for the time being in force to occupy such building or other place,

may make an order—

(i) directing the recovery of such building or place from any person who may be in unauthorised possession thereof, and

(ii) directing that such property, building or place be used for religious purpose or instruction as before, or if such use is not possible, be utilised, for any purpose specified in sub-clause (iii) of clause (e) of sub-section (2) of section 15."

25. Amendment of section 27.—After sub-section (2) of section 27 of the principal Act, the following sub-section shall be inserted, namely:—

"(3) Where the Board has any reason to believe that any property of any trust or society registered in pursuance of the Indian Trusts Act, 1882 (2 of 1882), or under the Societies Registration Act, 1860 (21 of 1860), or under any other Act, is wakf property, the Board may notwithstanding anything contained in such Act, hold an inquiry in regard to such property and, if after such inquiry, the Board is satisfied that such property is wakf property, call upon the trust or society, as the case may be, either to register such property under this Act as wakf property or show cause why such property should not be so registered :

Provided that in all such cases, notice of the action proposed to be taken under this sub-section shall be given to the authority by whom the trust or society had been registered.

(4) The Board shall, after duly considering such cause as may be shown in pursuance of notice issued under sub-section (3), pass such orders as it may think fit and the order so made by the Board shall be final, unless it is revoked or modified by a civil court of competent jurisdiction".

26. Amendment of section 28.—In section 28 of the principal Act,—

(a) for the word "Board", the words "Wakf Commissioner" shall be substituted :

(b) for the words "may itself", the words "may himself" shall be substituted.

27. Amendment of section 29.—In section 29 of the principal Act, for the word "Board", at both the places where it occurs, the words "Wakf Commissioner" shall be substituted.

28. Amendment of section 31.—Section 31 of the principal Act shall be renumbered as sub-section (1) thereof, and—

(a) to sub-section (1), as so renumbered, the following proviso shall be added namely:—

"Provided that where the gross annual income of the wakf exceeds five thousand rupees, such budget shall be submitted to the Wakf Commissioner for his approvals";

(b) after sub-section (1), as so renumbered, the following sub-section shall be inserted, namely:—

"(2) The Wakf Commissioner may, after giving notice to the mutawalli in the prescribed manner, and after considering his representations, if any, pass an order making such alterations, omissions and additions in the budget as he may think fit and the budget as so approved or modified shall be the budget of the wakf for that year."

29. Insertion of new section 31 A.—After section 31 of the principal Act, the following section shall be inserted, namely:—

"31 A. *Duties of Wakf Commissioner to prepare budget for wakf under the direct management of the Board.*—

(1) The Wakf Commissioner shall, in every year, prepare, in such form and at such time as may be prescribed, a separate budget for the next financial year for each of the wakfs under the direct management of the Board, showing therein the estimated receipts and expenditure and submit it to the Board for its approval.

(2) While submitting the budget under sub-section (1), the Wakf Commissioner shall also prepare a statement giving details of the increase, if any, in the income of each wakf under the direct management of the Board and the steps which have been taken for its better management and the results accruing therefrom during the year.

(3) The Wakf Commissioner shall keep regular accounts and be responsible for the proper management of every wakf under the direct management of the Board.

(4) Every budget submitted by the Wakf Commissioner under sub-section (1) shall comply with the requirements of section 32 and, for this purpose, references therein to the mutawalli of the wakf shall be construed as references to the Wakf Commissioner.

(5) The audit of accounts of every wakf under the direct management of the Board shall be undertaken by the State Examiner of Local Funds or any other officer appointed by the State Government for this purpose, irrespective of the income of the wakf.

(6) The provisions of sub-sections (2) and (3) of section 33 and the provisions of sections 34 and 35 shall, in so far as they are not inconsistent with the provisions of this section, apply to the audit of accounts referred to in this section.

(7) Where any wakf is under the direct management of the Board, such administrative charges as may be specified by the Wakf Commissioner shall be payable by the wakf to the Board :

Provided that the Wakf Commissioner shall not collect, except with the previous approval of the State Government, more than ten per cent of the gross annual income of the wakf under the direct management of the Board as administrative charges payable to the Board."

30. *Amendment of section 33.*—In section 33 of the principal Act,—

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) The accounts of wakfs submitted to the Board under section 32 shall be audited and examined in the following manner, namely:—

(a) in the case of a wakf having no income or a net annual income not exceeding one thousand rupees, the submission of a statement of accounts shall be a sufficient compliance with the provisions of section 32, and the accounts of two per cent of such wakfs shall be audited annually by an auditor appointed by the Board ;

(b) the accounts of a wakf having a net annual income exceeding one thousand rupees but not exceeding three thousand rupees, shall be prepared in the form of a statement of income and expenditure supported by properly maintained vouchers and receipts, and shall be audited triennially or at such other intervals as may be prescribed, by an auditor appointed by the Wakf Commissioner ;

(c) the accounts of a wakf having a net annual income exceeding three thousand rupees but not exceeding five thousand rupees, shall be audited by an auditor appointed by the Board from out of a panel of auditors prepared by the State Government and such audit shall be made biennially or at such other intervals as may be prescribed and while drawing up such panel of auditors, the State Government shall specify the scale of remuneration of the auditors ;

(d) the accounts of a wakf having a net annual income exceeding five thousand rupees, shall be audited by the State Examiner of Local Funds or by any other officer designated for the purpose by the State Government and every such audit shall be made annually or at such other intervals as may be prescribed :

Provided that where the net annual income of the wakf is not less than sixty thousand rupees, the accounts of such wakfs shall be audited concurrently as and when any expenditure is incurred and every such concurrent audit shall be made in accordance with such rules as may be prescribed ."

(ii) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) The cost of the audit of the accounts of a wakf shall be met from the funds of that wakf :

Provided that the remuneration of the auditors appointed from out of the panel drawn by the State Government in relation to wakfs having a net annual income of more than three thousand rupees but less than five thousand rupees shall be paid in accordance with the scale of remuneration specified by the State Government under clause (c) of sub-section (1) :

Provided further that where the audit of the accounts of any wakf is made by the State Examiner of Local Fund or any other officer designated by the State Government in this behalf, the cost of such audit shall not exceed one and a half per cent of the net annual income of such wakf and such costs shall be met from the funds of the wakf concerned."

31. *Amendment of section 34.*—Section 34 of the principal Act shall be renumbered as sub-section (1) thereof, and—

(a) in sub-section (1), as so renumbered,—

(i) after the words "auditor's report," the words, brackets and figures "or where the auditor's report is submitted after the commencement of the Wakf (Amendment) Act, 1984, the Wakf Commissioner shall examine such report" shall be inserted ;

(ii) for the words "shall pass such orders on the report as it thinks fit", the words, brackets and figures "the Board or, as the case may be, the Wakf Commissioner shall pass such orders on the report as it or he may think fit, including orders for the recovery of the amount certified by the auditor under sub-section (2) of section 33" shall be substituted ;

(b) after sub-section (1) as so renumbered, the following sub-sections shall be inserted, namely:—

"(2) The mutawalli or any other person aggrieved by any order made by the Board or the Wakf Commissioner under sub-section (1) may, within thirty days of the receipt by him of the order, apply to the Tribunal

to modify or set aside the order and the Tribunal may, after taking such evidence as it may think necessary, confirm or modify the order or remit the amount so certified, either in whole or in part, and may also make such order as to costs as it may think appropriate in the circumstances of the case.

(3) No application made under sub-section (1) shall be entertained by the Tribunal unless the amount certified by the auditor under sub-section (2) of section 33 has first been deposited in the Tribunal and the Tribunal shall not have any power to stay the operation of the order made by the Board or the Wakf Commissioner under sub-section (1).

(4) The order made by the Tribunal under sub-section (2) shall be final.

(5) Every amount for the recovery of which any order has been made under sub-section (1) or sub-section (2) shall, where such amount remains unpaid, be recoverable in the manner specified in section 15C or section 15D as if the said order were an order for the recovery of any amount determined under sub-section (3) of section 15B."

32. Amendment of section 35.—In section 35 of the principal Act, in sub-section (1), for the words "order of the Board", the words "order of the Board, or the Wakf Commissioner or the Tribunal, as the case may be," shall be substituted.

33. Amendment of section 36.—In section 36 of the principal Act,—

(1) in clause (a), for the words "directions of the Board", the words "directions made by—

(i) the Board, or

(ii) the Wakf Commissioner,

in accordance with the provisions of this Act or of any rule or order made thereunder" shall be substituted ;

(2) in clause (b), for the words "required by the Board," the words "required by the Board, or the Wakf Commissioner, as the case may be, in accordance with the provisions of this Act or of any rule or orders made thereunder" shall be substituted.

34. Substitution of section 36A.—For section 36A of the principal Act, the following section shall be substituted, namely:—

"**36A. Alienation of Wakf property without sanction of Board to be void.**—(1) Notwithstanding anything contained in the wakf deed, any gift, sale, exchange or hypothecation of any immovable property which is wakf property, shall be void unless such gift, sale, exchange or hypothecation is effected with the prior sanction of the Board.

(2) The Board may, after published in the Official Gazette, the particulars relating to the transaction referred to in sub-section (1) and inviting any objections and suggestions with respect thereto and considering all objections and suggestions, if any, that may be received by it from the concerned mutawalli or any other person interested in the wakf, accord sanction to such transaction if it is of opinion that such transaction is—

(i) necessary or beneficial to the wakf ;

(ii) consistent with the objects of the wakf ;

(iii) the consideration thereof is reasonable and adequate :

Provided that the sale of any property sanctioned by the Board shall be effected by public auction and shall be subject to confirmation by the Board with such time as may be prescribed :

Provided further that the Tribunal may, on the application of the aggrieved mutawalli or other person, for reasons to be recorded by it in writing permit such sale to be made otherwise than by public auction, if it is opinion that it is necessary so to do in the interest of the wakf.

(3) The utilisation or investment of the amount realised by the sale, exchange or hypothecation of any property shall be made by the mutawalli subject to the approval of the Board, and where any amount has been raised by mortgage of any such property, the mutawalli or other person shall make repayment of the mortgage-debt and obtain a discharge of the mortgage-debt from the mortgagee within such reasonable time as the Board may specify.

(4) Every approval given by the Board under sub-section (3) shall be communicated to the mutawalli and shall also be published in the prescribed manner.

(5) The mutawalli or any other person having an interest in the wakf who is aggrieved by the decision given under sub-section (3), in w, within ninety days from the date of communication to him of such decision or the publication of the decision, as the case may be, prefer an appeal to the Tribunal against such decision, and, thereupon, the Tribunal may, after giving the appellant and the Board or the Wakf Commissioner, as the case may be, a reasonable opportunity of being heard, confirm, modify or set aside such decision."

35. Insertion of new sections 36C, 33D, 36E and 36F.—After section 36B of the principal Act, the following sections shall be inserted, namely:—

"**36C. Restriction on purchase of property on behalf of the wakf.**—Notwithstanding anything contained in a wakf deed, no immovable property shall be purchased for or on behalf of any wakf from the funds of any wakf except with the prior sanction of the Wakf Commissioner, and the Wakf Commissioner shall not accord such sanction unless he considers that the acquisition of such property is necessary or beneficial to the wakf and that the price proposed to be paid therefor is adequate and reasonable :

Provided that before such sanction is accorded, the particulars relating to the proposed transaction shall be published in the Official Gazette inviting objections and suggestions with respect thereto and, the Wakf Commissioner shall, after considering the objections and suggestions that may be received by him from mutawallis or other persons interested in the wakf, make such orders as he may think fit.

36 D. Removal of encroachments from wakf property.—(1) Whenever the Wakf Commissioner considers, whether on receiving any complaint or on his own motion, that there has been an encroachment on any land, building, space or other property which is wakf property and, which has been registered as such under this Act, he shall cause to be served upon the encroacher a notice specifying the particulars of the encroachment and calling upon him to show cause before a date to be specified in the notice, as to why an order requiring him to remove the encroachment before the date so specified should not be made and shall send a copy of such notice to the concerned mutawalli.

(2) The notice referred to in sub-section (1) shall be served in such manner as may be prescribed.

(3) If, after considering the objections, received during, the period specified in the notice, and after conducting an inquiry in such manner as may be prescribed, the Wakf Commissioner is satisfied that the property in question is wakf property and that there has been an encroachment on any such wakf property, he may, by an order, require the encroacher to remove such encroachment and deliver possession of the land, building, space or other property encroached upon to his mutawalli of the wakf.

Explanation.— In this section and in section 36E, “encroacher” means the person by whom any encroachment has been made on any land, building, space or other property which is wakf property.

(4) Nothing contained in sub-section (3) shall prevent any person aggrieved by the order made by the Wakf Commissioner under that sub-section from instituting a suit in a court of law to establish that he has right, title or interest in the land, building, space or other property :

Provided that no such suit shall be instituted by a person who has been, let into possession of the land, building, space or other property as a lessee, licensee or mortgagee by the mutawalli of the wakf or by any other person authorised by him in this behalf.

36E. Enforcement of the order made under section 36 D.— Where, the person, ordered under sub-section (3) of section 36D to remove any encroachment, omits or fails to remove such encroachment within the time specified in the order or, as the case may be, fails to vacate the land, building, space or other property to which the order relates, within the time aforesaid, the Wakf Commissioner may apply to the Sub-Divisional Magistrate within the local limits of whose jurisdiction the land, building, space or other property is situate for evicting the encroacher, and, thereupon, the Magistrate shall make an order directing the encroacher to remove the encroachment, or, as the case may be, vacate the land, building, space or other property, and to deliver possession thereof to the concerned mutawalli, and in default of compliance with the order, remove the encroachment or, as the case may be, evict the encroacher from the land, building, space or other property and may, for this purpose, take such police assistance as may be necessary.

36F. Restrictions on the powers to grant lease of wakf property.—(1) A lease or sub-lease for any period exceeding three years of any immovable property which is wakf property shall, notwithstanding anything contained in the deed or instrument of wakf or in any other law for the time in force, be void and of no effect.

(2) A lease or sub-lease for a period exceeding one year and not exceeding three years of any immovable property which is wakf property shall, notwithstanding anything contained in the deed or instrument of wakf or in any other law for the time being in force, be void and of no effect unless it is made with the previous sanction of the Board.

(3) The Board shall, in granting sanction for the making or renewal of lease under this section review the terms and conditions on which the lease or sub-lease is proposed to be granted or renewed and make its approval subject to the revision of such terms and conditions in such manner as it may direct.

36. Amendment of section 38.— In section 38 of the principal Act,—

(a) in sub-section (1), for the word “Board”, the words, brackets and figures “the Board, or where such refusal or failure occurs after the commencement of the Wakf (Amendment) Act, 1984, the Wakf Commissioner,” shall be substituted ;

(b) in sub-section (2), for the word “Board”, the words “Board, or, as the case may be, the Wakf Commissioner” shall be substituted.

37. Amendment of section 39.— In section 39 of the principal Act, for the words “the Board may direct the creation and maintenance, in such manner as it may think fit”, the words “the Wakf Commissioner may direct the creation and maintenance, in such manner as he may think fit” shall be substituted.

38. Amendment of section 40.— In section 40 of the principal Act, for the words “The Board may, if it is satisfied”, the words “The Wakf Commissioner may, if he is satisfied” shall be substituted.

39. Amendment of section 41.— In section 41 of the principal Act,—

(a) in sub-section (1), for the words “fine which may extend to one thousand rupees”, the words “fine which may extend to two thousand rupees” shall be substituted ;

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) Notwithstanding anything contained in sub-section (1), if,—

(a) a mutawalli omits or fails, with a view to concealing the existence of a wakf, to apply for its registration under this Act,—

(i) in the case of a wakf created before the commencement of the Wakf (Amendment) Act, 1984, within the period specified therefor in sub-section (8) of section 25 of within a period of one month from such commencement, whichever period expires later, or

(ii) in the case of any wakf created after such commencement, within three months from the date of the creation of the wakf; or

(b) a mutawalli furnishes any statement, return or information to the Wakf Commissioner or the Board, as the case may be, which he knows or has reason to believe to be false, misleading, untrue or incorrect in any material particular,

he shall be punishable with imprisonment for a term which may extend to six months and also with fine which may extend to five thousand rupees.”;

(c) in sub-section (2), for the words, ‘made by the Board or an officer duly authorised by the Board’, the words ‘made by the Board or the Wakf Commissioner or by an officer duly authorised by the Board or the Wakf Commissioner’ shall be substituted;

(d) in sub-section (3), for the words ‘presidency magistrate or a magistrate of the first class’, the words ‘Metropolitan Magistrate or a Judicial Magistrate of the first class’ shall be substituted;

(e) after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) Notwithstanding anything contained in the Code Criminal Procedure, 1973 (2 of 1974) the fine imposed under sub-section (1), when realised, shall be credited to the Wakf Fund.

(5) In every case where an offender is convicted after the commencement of the Walf (Amendment) Act, 1984, of an offence punishable under sub-section (1) and sentenced to a fine, the court shall also impose such term of imprisonment in default of payment of fine as is authorised by law for such default”.

40. *Insertion of new section 41 A and 41 B.*—After section 41 of the principal Act, the following sections shall be inserted, namely:—

“41 A.—*Mutawalli not to spend any money belonging to a wakf for defending himself.*—No Mutawalli shall spend any money out of the funds of the wakf, of which he is the mutawalli, for meeting any costs, charges or expenses which are, or may be, incurred by him, in relation to any suit, appeal or any other proceeding for, or incidental to, his removal from office or for taking any disciplinary action against himself.

41 B. *Power of Board to determine by whom costs, etc., shall be paid.*—The Board shall determine by whom or out of which fund and to what extent any costs, charges or expenses, for or incidental to, any appeal or other proceeding, before the Board, shall be paid, and the order for payment made by the Board shall be deemed to be an order passed by a civil court and may be sent by the Board for execution to the court within the local limits of whose jurisdiction the person who is so ordered to make such payment voluntarily resides or carries on business or personally works for gain and the court to which the order is to be sent for execution shall execute such order as if it were an order made by it.”.

41. *Amendment of section 43.*—In section 43 of the principal act,—

(a) in sub-section (1),—

(i) in clause (b), for the words “moral turpitude”, the words “moral turpitude, and such conviction has not been reversed and he has not been granted full pardon with respect to such offence,” shall be substituted;

(ii) clause (c) shall be omitted;

(iii) clause (e) shall be omitted;

(iv) after clause (e), as so omitted, the following clauses shall be inserted, namely:—

“(f) is an undischarged insolvent ; or

(g) is proved to be addicted to drinking liquor or other spirituous preparations, or is addicted to the taking of any narcotic drugs; or

(h) is employed as a paid legal practitioner on behalf of, or against, the wakf ; or

(i) has failed, without reasonable excuse, to maintain regular accounts for two consecutive years or has failed to submit, in two consecutive years, the yearly statement of accounts, as required by sub-section (2) of section 32; or

(j) is interested, directly or indirectly, in a subsisting lease in respect of any wakf property, or in any contract made with, or any work being done for, the wakf or is in arrears in respect of any sum due by him to such wakf; or

(k) continuously neglects his duties or commits any misfeasance, malfeasance, misapplication of funds or breach of trust in relation to the wakf or in respect of any money or other wakf property; or

(l) wilfully and persistently disobeys the lawful orders made by the Central Government, State Government, Board or Wakf Commissioner under any provision of this Act or rule or order made thereunder.”;

(b) sub-section (2) shall be omitted:

(c) in sub-section (4),—

(i) the words, brackets and figure “or sub-section (2)” shall be omitted;

(ii) for the word “three-fourths”, the word “two-thirds” shall be substituted ;

(d) for sub-section (4A), the following sub-section shall be substituted, namely:—

“(4A) A mutawalli who is aggrieved by an order passed under any of the clauses (d) to (e) of sub-section (1), may, within one month from the date of the receipt by him of the order, appeal against the order to the Tribunal and the decision of the Tribunal on such appeal shall be final.”;

(e) after sub-section (4A), the following sub-sections shall be inserted, namely:—

“(4B) Where any inquiry under sub-section (4) is proposed, or commenced, against any mutawalli, the Board may, if it is of opinion that it is necessary so to do in the interests of the wakf, by an order suspend such mutawalli until the conclusion of the inquiry:

Provided that no suspension for a period exceeding ten days shall be made except after giving the mutawalli a reasonable opportunity of being heard against the proposed action.

(4C) Where any appeal is filed by the mutawalli to the Tribunal under sub-section (4A), the Wakf Commissioner may make an application to the Tribunal for the appointment of a receiver to manage the wakf pending the decision of the appeal, and where such an application is made, the Tribunal shall not withstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908), appoint a suitable person as receiver to manage the wakf and direct the receiver so appointed to ensure that the customary or religious rights of the mutawalli and of the wakf are safeguarded.”;

(f) in sub-section (5), the words, brackets and figure “or sub-section (2)” shall be omitted.

42. *Substitution of section 43A.*— For section 43A of the principal Act, the following section shall be substituted, namely:—

“43A. *Assumption of direct management of certain wakfs by the Board.*— (1) Where no suitable person is available for appointment as a mutawalli of a wakf, or where the Board is satisfied, for reasons to be recorded by it in writing, that the filling up of the vacancy in the office of a mutawalli is prejudicial to the interests of the wakf, the Board may, by notification in the Official Gazette, assume direct management of the wakf for such period or periods, not exceeding five years in the aggregate, as may be specified in the notification.

(2) The State Government may, on its own motion or on the application of any person interested in the wakf, call for the records of any case for the purpose of satisfying itself as to the correctness, legality or propriety of the notification issued by the Board under sub-section (1) and pass such orders as it may think fit and the orders so made by the State Government shall be final and shall be published in the manner specified in sub-section (1).

(3) As soon as possible after the close of every financial year, the Board shall to the State Government, a detailed report in regard to every wakf under its direct management, giving therein—

(a) the details of the income of the wakf for the year immediately preceding the year under report;

(b) the steps taken to improve the management and income of the wakf;

(c) the period during which the wakf has been under the direct management of the Board and explaining the reasons as to why it has not been possible to entrust the management of the wakf to the mutawalli or any committee of management during the year; and

(d) such other matters as may be prescribed.

(4) The State Government shall examine the report submitted to it under sub-section (3) and, after such examination, issue such directions or instructions to the Board as it may think fit and the Board shall comply with such instructions on receipt thereof.”.

43. *Insertion of new sections 43B to 43F.*— After section 43A of the principal Act, the following sections shall be inserted, namely:—

“43B. *Powers of appointment and removal of mutawalli when to be exercised by the State Government.*— Whenever a deed of wakf for any decree or order of a court or any scheme of management of any wakf provides that a court or any authority other than a Board may appoint or remove a mutawalli or settle or modify such scheme of management or otherwise exercise superintendence over the wakf, then notwithstanding anything wakf of contained in such deed of wakf decree order or scheme, the powers aforesaid shall be exercisable by the State Government.

“43C. *Supervision and supersession of Committee of Management.*— (1) Whenever the supervision or management of a wakf is vested in any committee appointed by the wakf, then, notwithstanding anything contained in this Act, such committee shall continue to function until it is superseded by the Board or until the expiry of such term as may be specified by the wakf, whichever is earlier:

Provided that such committee shall function under the direction, control and supervision of the Board and of the Wakf Commissioner, and abide by such directions as the Board or, as the case may be, the Wakf Commissioner may issue from time to time:

Provided further that if the Wakf Commissioner is satisfied that any scheme for the management of a wakf by a committee is inconsistent with any provision of this Act or of any rule made thereunder or with the directions of the wakf, he may, at any time, modify the scheme in such manner as may be necessary to bring it in conformity with the directions of the wakf or of the provisions of this Act and the rules made thereunder.

(2) Notwithstanding anything contained in this Act and in the deed of wakf, the Board may, if it is satisfied, for reasons to be recorded by it in writing, that a committee referred to in sub-section (1) is not functioning properly and satisfactorily or that the wakf is being mismanaged and that in the interests of its proper management, it is necessary so to do, by an order, supersede such committee and, on such supersession, any direction of the wakf, in so far as it relates to the constitution of the committee, shall cease to have any force:

Provided that the Board shall, before making any order superseding any committee, issue a notice setting forth therein the reasons for the proposed action and calling upon the committee to show cause within such time, not being less than one month, as may be specified in the notice, as to why such action shall not be taken.

(3) Every order made by the Board under sub-section (2) shall be published in the prescribed manner and on such publication shall be binding on the mutawalli and all persons having any interest in the wakf.

(4) Any order made by the Board under sub-section (2) shall be final :

Provided that any person aggrieved by the order made under sub-section (2) may, within sixty days from the date of the order, make an application to the Tribunal for the adjudication of the matter :

Provided further that the Tribunal shall have no power to suspend the operation of the order made by the Board pending such adjudication.

(5) The Board shall, whenever it supersedes any committee under sub-section (2), constitute a new committee of management simultaneously with the order made by it under sub-section (2).

(6) Notwithstanding anything contained in the foregoing sub-sections, the Board may, instead of superseding any committee under sub-section (2), remove any member thereof if it is satisfied that such member has abused his position as such member or had knowingly acted in a manner prejudicial to the interests of the wakf, and every such order for the removal of any member shall be served upon him by registered post :

Provided that no order for the removal of the member shall be made unless he has been given a reasonable opportunity of showing cause against the proposed action :

Provided further that any member aggrieved by any order for his removal from the membership of the committee, may, within a period of thirty days from the date of service of the order on him, prefer an appeal against such order to the Tribunal, and the Tribunal may, after giving a reasonable opportunity to the appellant and the Board of being heard, confirm, modify or reverse the order made by the Board and the order made by the Tribunal in such appeal shall be final

43D. Matters which an order for removal of mutawalli or committee shall contain.— Whenever any order is made in accordance with the provisions of this Act for the removal of a mutawalli or committee, such order shall direct the removed mutawalli or the removed committee, as the case may be, to hand over charge, and to deliver possession of the records, accounts and all properties of the wakf (including cash) to the successor mutawalli or the successor committee, as the case may be, and shall also specify therein a date on or before which such charge shall be handed over and such delivery of possession shall be made.

43E. duty of mutawalli or committee to deliver possession of records, etc.— (1) Where any mutawalli or committee of management has been removed by the Board in accordance with the provisions of this Act, or of any scheme made by the Board, the mutawalli or the committee, as the case may be, who or which has been so removed from office (hereinafter in this section referred to as the removed mutawalli or removed committee, as the case may be) shall hand over charge and deliver possession of the records, accounts and all properties of the wakf (including cash) to the successor mutawalli or the successor committee, as the case may be, within one month from the date specified in the order whereby the removed mutawalli or removed committee has been directed to hand over charge and to deliver possession of records, accounts and all properties of the wakf (including cash), to the successor mutawalli or successor committee, as the case may be.

(2) Where any removed mutawalli or removed committee fails to deliver charge or deliver possession of the records, accounts and properties (including cash) to the successor mutawalli or successor committee within the time specified in sub-section (1); or prevents or obstructs such mutawalli or committee, from obtaining possession thereof after the expiry of the period aforesaid, the successor mutawalli or any member of the successor committee may make an application, accompanied by —

- (a) certified copy of the order appointing such successor mutawalli or successor committee, and
- (b) a certificate issued by the Wakf Commissioner specifying such failure, or obstruction,

to any Magistrate of the first class within the local limits of whose jurisdiction any part of the wakf property is situate, and, thereupon, the Magistrate may, after giving notice to the removed mutawalli or members of the removed committee, make an order directing the delivery of charge and also delivery of possession of such records, accounts and properties (including cash) of the wakf to the successor mutawalli or the successor committee, as the case may be, within such time as may be specified in the order.

(3) Where the removed mutawalli or any member of the removed committee, omits or fails to deliver charge or to deliver possession of the records, accounts and properties (including cash) within the time specified by the Magistrate under sub-section (2) the removed mutawalli or every member of such removed committee, as the case may be, shall be punishable with imprisonment for a term which may extend to six months or with the fine which may extend to two thousand rupees, or with both.

(4) Whenever any removed mutawalli or any member of the removed committee omits or fails to comply with the orders made by a Magistrate under sub-section (2), the Magistrate may authorise the successor mutawalli or successor committee, as the case may be, to take over charge and also to take possession of such records, accounts of properties (including cash) and may authorise such person to take such police assistance as may be necessary for the purpose.

(5) No order of appointment of the successor mutawalli or successor committee, and no certificate granted by the Wakf Commissioner under sub-section (2), shall be called in question in the proceedings before the Magistrate under this section.

(6) Nothing contained in this section shall bar the institution of any suit in a competent civil court by any person aggrieved by any order made under this section, to establish that he has right, title and interest in the properties specified in the order made by the Magistrate under sub-section (2).

43F. Power of wakf Commissioner to frame scheme for the administration of a wakf.—(1) Whenever the Wakf Commissioner is satisfied, whether on his own motion or on the application of not less than five persons interested in any wakf, that it is necessary or desirable to frame a scheme for the proper administration of the wakf, he may, after consultation in the prescribed manner with the mutawalli of the wakf; and where any application is made to him, with the applicants, by an order, frame such scheme for the administration of the wakf.

(2) A scheme framed under sub-section (1) may provide for the removal of the mutawalli of the wakf holding office as such immediately before the date on which the scheme comes into force ;

Provided that where any such scheme provides for the removal of any hereditary mutawalli, the scheme shall also provide for the appointment of the person next in hereditary succession to the mutawalli so removed, as one of the members of the committee appointed for the proper administration of the wakf.

(3) Every order made under sub-section (2) shall be published in the prescribed manner, and, on such publication, shall be final and binding on the mutawalli and all persons interested in the wakf :

Provided that any person aggrieved by an order made under sub-section (1) or sub-section (2) may, within sixty days from the date of the order, prefer an appeal to the Tribunal and after hearing such appeal, the Tribunal may confirm, reverse or modify the order :

Provided further that the Tribunal shall have no power to make any order staying the operation of the order, made under sub-section (1) or sub-section (2).

(4) The Wakf Commissioner may, at any time by an order, whether made before or after the scheme has come into force, cancel or modify the scheme which has been framed under this section.

(5) Pending the framing of the scheme for the proper administration of the wakf, the Wakf Commissioner may appoint a suitable person to perform all or any of the functions of the mutawalli thereof and to exercise the powers, and perform the duties, of such mutawalli."

44. Amendment of section 44.—In section 44 of the principal Act,—

(i) for the word "Board", at both the places where it occurs, the words "Wakf Commissioner" shall be substituted ;

(ii) for the words "it shall take such action thereon as it thinks fit", the words "he shall take such action thereon as he thinks fit" shall be substituted.

45. Amendment of section 45.—In section 45 of the principal Act,—

(a) in sub-section (1),—

(i) for the word "Board", the words "Wakf Commissioner" shall be substituted ;

(i) for the words "its own motion", the words "his own motion" shall be substituted ;

(iii) for the words "as it thinks fit", the words "as he thinks fit" shall be substituted ;

(b) in sub-section (2), for the words "the Board or any person authorised by it", the words "the Wakf Commissioner or any person authorised by him" shall be substituted ;

(c) after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) The Wakf Commissioner holding any inquiry under sub-section (1), shall be deemed to be a person acting judicially within the meaning of the Judicial Officers Protection Act, 1850 (18 of 1850)."

46. Amendment of section 46.—In section 46 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) The mutawalli of every wakf, the net annual income of which is not less than one thousand rupees, shall pay annually, out of the net annual income derived by the wakf, such contribution, not exceeding six per cent, of such annual income, as may be prescribed, to the Board for the services rendered by such Board to the wakf.

Explanation I.—For the purposes of this Act, "net annual income" shall mean the gross income of the wakf from all sources, including nazars and offerings which do not amount to contributions to the corpus of the wakfs, in a year after deducting therefrom, the following, namely:—

(i) the land revenues paid by it to the Government, including cesses paid to local authorities ;

(ii) the rates, taxes and licence fees, if any, paid by it to the Government or any local authority ;

(iii) expenditure incurred for all or any of the following purposes, namely:—

(a) maintenance of, or repairs to, irrigation works, which shall not include the capital cost of irrigation ;

(b) seeds or seedlings ;

(c) manure ;

(d) purchase, and maintenance, of agricultural implements ;

(e) purchase, and maintenance, of cattle for cultivation ;

- (f) wages for ploughing, watering, sowing, transplanting, harvesting, threshing and other agricultural operations:

Provided that the total deduction in respect of an expenditure incurred under this clause shall not exceed ten per cent of the income derived from the lands belonging to the wakf;

- (iv) expenditure on sundry repairs to rented buildings, not exceeding five per cent of the annual rent derived therefrom, or the actual expenditure, whichever is less ;
- (v) sale proceeds of immovable properties or rights relating to, or arising out of, immovable properties, if such proceeds are re-invested to earn income for the wakf:

Provided that the following items of receipts shall not be deemed to be income for the purposes of this section, namely:—

- (a) advances and deposits recovered and loans taken or recovered;
- (b) deposits made as security by employees, lessees, or contractors and other deposits, if any;
- (c) withdrawals from banks or of investments ;
- (d) amounts recovered towards costs awarded by courts ;
- (e) sale proceeds of religious books and publications where such sales are undertaken as an unremunerative enterprise with a view to propagating religion;
- (f) donations in cash or kind or offerings made by the donors as contribution to the corpus of the wakf:

Provided that the interest on income, if any, accruing from such donations or offerings shall be taken into account in calculating the gross annual income ;

- (g) voluntary contributions received in cash or kind for a specific service to be performed by the wakf and expended on such service ;
- (h) audit recoveries.

Explanation II.—In determining the net annual income for the purposes of this section, only the net profit derived by any wakf from its remunerative undertakings, if any, shall be taken as income, and in respect of its non-remunerative undertakings, such as, schools, colleges, hospitals, poor homes, orphanages or any other similar institutions, the grants given by the Government or any local authority or donations received from the public or fees collected from the pupils of educational institutions shall not be taken as income.” :

- (b) in sub-section (2) , for the words “any particular wakf”, the words “any mosque or orphanage or any particular wakf” shall be substituted ;
- (c) after sub-section (5), the following sub-sections shall be inserted, namely; —

“(6) Where , after the commencement of the Wakf (Amendment) Act, 1984, the mutawalli of a wakf fails to submit a return of the net annual income of the wakf within the time specified therefor or submits a return which, in the opinion of the Wakf Commissioner, is incorrect or false in any material particular, or which does not comply with the provisions of this Act or any rule or order made thereunder, the Wakf Commissioner may, assess the net annual income of the wakf to the best of his judgment or revise the net annual income as shown in the return submitted by the mutawalli and the net annual income as so assessed or revised shall be deemed to be the net annual income of the wakf for the purposes of this section :

Provided that no assessment of net annual income or revision of return submitted by mutawalli shall be made except after giving a notice to the mutawalli calling upon him to show cause, within the time specified in the notice, as to why such assessment or revision of the return shall not be made and every such assessment or revision shall be made after considering the reply, if any, given by the mutawalli.

(7) Any mutawalli who is aggrieved by the assessment or revision made by the Wakf Commissioner under sub-section (6) may prefer an appeal to the State Government within thirty days from the date of the receipt of the assessment or revision of return and the State Government may, after giving the appellant and the Wakf Commissioner a reasonable opportunity of being heard, confirm, reverse or modify the assessment or revision of the return and the decision of the State Government shall be final.

(8) If, for any reason, the contribution or any portion thereof leviable under this section has escaped assessment in any year, whether before or after the commencement of the Wakf (Amendment) Act, 1984, the Wakf Commissioner may, within five years from the last date of the year to which such escaped assessment relates, serve upon the mutawalli a notice assessing him with the contribution or portion thereof which had escaped assessment, and demanding payment thereof within thirty days from the date of service of such notice, and the provisions of this Act and the rules made thereunder, shall, as far as may be, apply as if the assessments were made under this Act in the first instance.”.

47. Insertion of new sections 46A and 46B.—After section 46 of the principal Act, the following sections shall be inserted, namely;—

“46A. **Power of Wakf Commissioner to direct banks, etc., to make payment.**—(1) Notwithstanding anything contained in any other law for the time being in force the Wakf Commissioner, if he is satisfied that it is necessary and expedient so to do, make an order directing any bank in which, or any person with whom, any money belonging to a wakf is deposited, to pay the contribution, leviable under section 46, out of such money,

as may be standing to the credit of the wakf in such bank or may be deposited with such person, or out of the monies which may, from time to time, be received by such bank or other person for or on behalf of the wakf by way of deposit, and on receipt of such orders, the bank or the other person, as the case may be, shall, when no appeal has been preferred under sub-section (3), comply with such orders, or where an appeal has been preferred under sub-section (3), shall comply with the orders made by the Tribunal on such appeal.

(2) Every payment made by a bank or other person in pursuance of any order made under sub-section (1) shall operate as a full discharge of the liability of such bank or other person in relation to the sum so paid.

(3) Any bank or other person who is ordered under sub-section (1) to make any payment may, within thirty days from the date of the order, prefer an appeal against such order to the Tribunal and the decision of the Tribunal on such appeal shall be final.

(4) Every officer of the bank or other person who fails, without any reasonable excuse, to comply with the order made under sub-section (1) or, as the case may be, under sub-section (3), shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to two thousand rupees, or with both.

46B. *Deduction of contribution from perpetual annuity payable to the wakf.*—(1) Every authority empowered to disburse any perpetual annuity payable to a wakf under any law relating to the abolition of zamindaries or jagirs, or laying down land ceilings, shall, on receipt of a certificate from the Wakf Commissioner specifying the amount of contribution payable by the wakf under section 46 which remains unpaid, deduct before making payment of the perpetual annuity to the wakf, the amount specified in such certificate, and remit the amount so deducted to the Wakf Commissioner.

(2) Every amount remitted under sub-section (1) to the Wakf Commissioner shall be deemed to be a payment made by the wakf and shall, to the extent of the amount so remitted, operate as a full discharge of the liability of such authority with regard to the payment of the perpetual annuity.”

48. *Insertion of new section 47A.*—After section 47 of the principal Act, the following section shall be inserted, namely:—

“47A. *Mutawalli not to lend or borrow moneys without sanction.*—(1) Notwithstanding anything contained in a deed of wakf, no mutawalli, Executive Officer or other person in charge of the administration of a wakf shall lend any money belonging to the wakf or any wakf property or borrow any money for the purposes of the wakf except with the previous sanction of the Wakf Commissioner.

(2) The Wakf Commissioner may, while according sanction, specify any terms and conditions subject to which the person referred to in sub-section (1) is authorised by him to lend or borrow any money or lend any other wakf property.

(3) Where any money is lent or borrowed, or other wakf property is lent in contravention of the provisions of this section, it shall be lawful for the Wakf Commissioner—

(a) to recover an amount equal to the amount which has been so lent, or borrowed, together with interest due thereon, from the personal funds of the person by whom such amount was lent or borrowed ;

(b) to recover the possession of the wakf property lent in contravention of the provisions of this Act, from the person to whom it was lent, or from persons who claim title to such property through the person to whom property was lent.”

49. *Amendment of section 49.*—Section 49 of the principal Act shall be renumbered as sub-section (1) thereof, and after sub-section (1) as so renumbered, the following sub-sections shall be inserted, namely:—

“(2) On receipt of the budget forwarded to it under sub-section (1), the State Government shall examine the same and suggest such alterations, corrections, or modifications to be made therein as it may think fit and forward such suggestions to the Board for its consideration.

(3) On receipt of the suggestions from the State Government, the Board may make written representations to that Government with regard to the alterations, corrections or modifications suggested by that Government, and the State Government shall after considering such representations, communicate, within a period of three weeks from the date of receipt thereof, to the Board its final decision in relation to the matter and the decision of the State Government shall be final.

(4) On receipt of the decision of the State Government under sub-section (3), the Board shall incorporate in its budget all the alterations, corrections, modifications finally suggested by the State Government and the budget as so altered, corrected or modified, shall be the budget which shall be passed by the Board.”

50. *Amendment of section 51.*—In sub-section (2) of section 51 of the principal Act, after the words “auditor shall, among other things, specify”, the following words shall be inserted, namely:—

“whether the accounts of every wakf under the direct management of the Board have been kept separately and whether such accounts have been audited annually by the State Examiner of Local Funds and shall also specify”.

51. *Substitution of section 55.*—For section 55 of the principal Act, the following section shall be substituted, namely:—

“55. *Appointment, powers and jurisdiction of Tribunal's.*—(1) The State Government shall, by notification in the Official Gazette, constitute as many Tribunals as it may think fit for the determination of any dispute, question or other matter relating to a wakf or wakf property which such Tribunal is, or may be, required to determine under this Act or any rule or order made thereunder, and may, by the same or subsequent notification in the Official Gazette, define the local limits of the area in relation to which each Tribunal appointed by it shall exercise jurisdiction under this Act.

(2) Any mutawalli of a wakf person interested in a wakf or any other person aggrieved by any order made under this Act or any rule or order made thereunder may make an application within the time specified in this Act or where no such time has been specified, within such time as may be prescribed, to the Tribunal for the determination of any dispute, question or other matter relating to the wakf.

(3) Where any application made under sub-section (1) relates to any wakf property which falls within the territorial limits of the jurisdiction of two or more Tribunals, such application may be made to the Tribunal within the local limits of whose jurisdiction the mutawalli or any one of the mutawallis of the wakf actually and voluntarily resides, carries on business or personally works for gain, and, where any such application is made to the Tribunal aforesaid, the other Tribunal or Tribunals having jurisdiction shall not entertain any application for the determination of such dispute, question or other matter :

Provided that the State Government may, if it is of opinion that it is expedient in the interests of the wakf or any other person interested in the wakf or the wakf property, to transfer such application to any other Tribunal having jurisdiction for the determination of the dispute, question or other matter relating to such wakf or wakf property, transfer such application to any other Tribunal having jurisdiction, and, on such transfer, the Tribunal to which the application is so transferred shall deal with the application from the state which was reached before the Tribunal from which the application has been so transferred, except where the Tribunal is of opinion that it is necessary in the interests of justice to deal with the application afresh.

(4) Every Tribunal shall consist of one person, who shall be a member of the State Judicial Service holding a rank, not below that of a District and Sessions Judge or of a Civil Judge, Class I, and the appointment of every such person may be made either by name or by designation.

(5) The Tribunal shall be deemed to be a civil court and shall have the same powers as may be exercised by a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, or executing a decree or order.

(6) Notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908), the Tribunal shall follow such procedure as may be prescribed :

Provided that where any procedure, different from the prescribed procedure, is specified by this Act, the Tribunal shall follow the procedure specified by this Act.

(7) The decision of the Tribunal shall be final and binding upon the parties to the application and it shall have the force of a decree made by a civil court.

(8) Execution of any decision of the Tribunal shall be made by the civil court to which such decision is sent for execution in accordance with the provisions of the Code of Civil Procedure, 1908 (5 of 1908).

(9) No appeal shall lie against any decision or order whether interim or otherwise, given or made by the Tribunal :

Provided that a High Court may, on its own motion or on the application of the Board or any person aggrieved, call for and examine the records relating to any dispute, question or other matter which has been determined by the Tribunal for the purpose of satisfying itself as to the correctness, legality or propriety of such determination and may confirm, reverse or modify such determination and may confirm, revise or modify such determination or pass such other order as it may think fit."

52. *Insertion of new sections 55A to 55F.*—After section 55 of the [principal Act, the following sections shall be inserted, namely:—

"55A. *Tribunal to hold proceedings expeditiously and to furnish to the parties copies of its decision.*—Whenever an application is made to a Tribunal for the determination of any dispute, question or other matter relating to a wakf or wakf property it shall hold its proceedings as expeditiously as possible and shall, as soon as practicable, on the conclusion of the hearing of such matter, give its decision in writing under its signature and furnish a copy of such decision to each of the parties who were present before it at the time of the decision and, where any party was not present at the time aforesaid, send a copy of such decision to such party by registered post.

55B. *Amendment of decisions.*—Clerical or arithmetical mistakes in any decision or order of a Tribunal or any error arising therein from any accidental slip or omission may at any time be corrected by the Tribunal by which such decision was given or order was made, either on its own motion or on the application of any of the parties to the proceedings, and, whenever any such correction is made, a copy of the decision or order, as so corrected, shall be furnished to each of the parties who were present before the Tribunal at the time of making such correction, and, where any party was not so present, shall be sent to such party by registered post.

55C. *Bar of jurisdiction of civil courts in respect of matters determined by Tribunal.*—No suit or other legal proceeding shall lie in any civil court in respect of any dispute, question or other matter relating to any wakf property or other matter which is required by, or under, this Act to be determined by a Tribunal.

55D. *Appointment of a receiver in certain cases.*—Notwithstanding, anything contained in the Code of Civil Procedure, 1908 (5 of 1908), or in any other law for the time being in force, where any suit or other legal proceeding is instituted or commenced—

(a) by or on behalf of a Board—

- (i) to set aside the sale of any immovable property, which is wakf property, in execution of a decree or order of a civil court ;
- (ii) to set aside the transfer of any immovable property, which is wakf property, made by the mutawalli thereof, whether for valuable consideration or not, without, or otherwise than in accordance with, the sanction of the Board;

(iii) to recover possession of the property referred to in clause (a) or clause (b) or to restore possession of such property to the mutawalli of the concerned wakf ; or

(b) by a mutawalli to recover possession of immovable property, which is wakf property, which has been transferred by a previous mutawalli, whether for valuable consideration or not, without or otherwise than in accordance with, the sanction of the Board, and which is in the possession of the defendant,

the court may, on the application of the plaintiff, appoint a receiver of such property and direct such receiver to pay from time to time to the plaintiff, out of the income of the property, such amount as the court may consider to be necessary for further prosecution of the suit.

55E. *Bar to the enforcement of right on behalf of unregistered wakfs.*—(1) Notwithstanding anything contained in any other law for the time being in force, no suit, appeal or other legal proceeding for the enforcement of any right on behalf of any wakf which has not been registered in accordance with the provisions of this Act, shall be instituted or commenced or heard, tried or decided by any court after the commencement of the Wakf (Amendment) Act, 1984, or where any such suit, appeal or other legal proceeding had been instituted or commenced before such commencement, no such suit, appeal or other legal proceeding shall be continued, heard, tried or decided by any court after such commencement unless such wakf has been registered, after such commencement, in accordance with the provisions of this Act,

(2) The provisions of sub-section (1) shall apply, as far as may be, to the claim for set-off or any other claim made on behalf of any wakf which has not been registered in accordance with the provisions of this Act.

55F. *Bar to the challenge of the validity of any notification, etc.*—Save as otherwise expressly provided in this Act, no notification or order or decision made, proceeding or action taken, by the Central Government or the State Government under this Act or any rule made thereunder shall be questioned in any civil court."

53. *Amendment of section 57.*—In sub-section (1) of section 57 of the principal Act,—

(a) for the words "title to wakf [property]", the words "title to, or possession of, wakf property" shall be substituted ;

(b) for the words "or the right of a mutawalli, the court", the words "or the right of a mutawalli or beneficiary, the court or Tribunal" shall be substituted.

54. *Amendment of section 58.*—In section 58 of the principal Act,—

(a) in sub-section (1),—

(i) after the words and figures "Land Acquisition Act, 1894 (1 of 1894)" the words "or under any other law for the time being in force relating to the acquisition of land or other property" shall be inserted ;

(ii) the following *Explanation* shall be inserted at the end, namely:—

"*Explanation.*—The reference to Collector in the foregoing provisions of this sub-section shall, in relation to any other law referred to therein, be construed if the Collector is not the competent authority under such other law to make an award of the compensation or other amount payable for acquisition of land or other property thereunder, as a reference to the authority under such other law competent to make such award."

(b) in sub-section (3), after the words and figures "Land Acquisition Act, 1894 (1 of 1894)", the words, brackets and figure "or under the corresponding, provisions of the other law referred to in sub-section(1)" shall be inserted;

(c) in sub-section (4), after the words and figures "Land Acquisition Act, 1894 (1 of 1894)", the words, brackets and figure "or under the corresponding provisions of the other law referred to in sub-section (1)" shall be inserted.

55. *Amendment of section 59.*—In section 59 of the principal Act, for the word "Board", the words "Wakf Commissioner" shall be substituted.

56. *Amendment of section 61.*—In section 61 of the principal Act,—

(a) in sub-section (1),—

(i) for the words "the Board may apply", the words "the Wakf Commissioner may apply" shall be substituted;

(ii) or the words "to pay to the Board or to any person authorised by the Board", the words "to pay to the Wakf Commissioner or to any person authorised by the Wakf Commissioner" shall be substituted ;

(b) in sub-section (2), for the word "Board", the words "Wakf Commissioner" shall be substituted.

57. *Insertion of new section 61A.*—In Chapter VII of the principal Act, after section 61, the following section shall be inserted, namely:—

"61A. *Power of appellate authority to entertain appeal after the expiry of the specified period.*—Where, under this Act any period has been specified for the filing of any appeal, the appellate authority may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the period so specified, entertain the appeal after the expiry of the said period."

58. Substitution of section 62.—For section 62 of the principal Act, the following section shall be substituted, namely:—

“62. Powers of Central Government to regulate the secular activities of wakfs.—(1) For the purpose of regulating the secular activities of wakfs, the Central Government shall have the following powers and functions, namely:—

- (a) to lay down general principles and policies of wakf administration in so far as they relate to the secular activities of the wakfs ;
- (b) to co-ordinate the functions of the Central Wakf Council, the Wakf Commissioners and the Board, in so far as they relate to their secular functions;
- (c) to review administration of the secular activities of wakfs generally and to suggest improvements, if any.

(2) In exercising its powers and functions under sub-section (1), the Central Government may call for any periodic or other reports from any Board or Wakf Commissioner and may issue to the Board or Wakf Commissioner such directions as it may think fit and in the performance of their functions, the Board and the Wakf Commissioners shall comply with such directions.”

59. Insertion of new sections 63A and 63B.—After section 63 of the principal Act, the following sections shall be inserted, namely:—

“63A. Annual report by the State Government.—As soon as may be after the close of a financial year, the State Government shall cause a general annual report on the working and administration of the State Wakf Board and the administration of wakfs in the State during that year to be prepared and laid before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House, and every such report shall be in such form and shall contain such matters as may be prescribed.

63B. Powers of revision of the State Government.—(1) Save as otherwise provided in this Act, the State Government may either on its own motion or on an application made to it by a mutawalli or any other person interested in the wakf, call for and examine the record of the Board or Wakf Commissioner, as the case may be, in respect of any proceeding (not being a proceeding relating to a matter in respect of which a suit has been instituted or appeal has been filed or application has been made to a court or any proceeding arising out of an application made to the Tribunal or an appeal to the State Government as provided by this Act), to satisfy itself as to the regularity of such proceedings or the correctness, legality or propriety of any decision or order passed in such proceedings, and, if in any case, it appears to the State Government that any such decision or order should be modified, annulled, reversed or remitted to the Board for reconsideration, the State Government may pass orders accordingly :

Provided that no such order shall be made except after giving to the person who is likely to be prejudicially affected thereby a reasonable opportunity of making his representations against the proposed action.

(2) No application shall be entertained under sub-section (1) in respect of any matter unless an application in relation to the said matter had already been made to the Board and had been disposed of by the Board or, where the application relates to any matter in respect of which the Wakf Commissioner is empowered by or under this Act to exercise any power, unless an application had been made to the Wakf Commissioner and has been disposed of by him.

(3) Every application referred to in sub-section (1) shall be made within a period of three months from the date on which the order made in the proceeding to which the application relates, was communicated to the applicant”.

60. Amendment of section 64.—In sub-section (1) of section 64 of the principal Act, after the words “or has exceeded or abused its powers”, the words and figures “or has wilfully and without sufficient cause failed to comply with any direction issued by the Central Government under section 62 or the State Government under section 63, or if the State Government is satisfied on a consideration of any report submitted after annual inspection, that the Boards continuance is likely to be injurious to the interests of the wakfs in the State” shall be inserted.

61. Amendment of section 65.—In section 65 of the principal Act, for the words “the Commissioner”, the words “the Wakf Commissioner or the Survey Commissioner” shall be substituted.

62. Substitution of section 66.—For section 66 of the principal Act, the following section shall be substituted, namely:—

“66. Wakf Commissioner, members of Board, etc. to be deemed to be public servants.—(1) The Wakf Commissioner, Survey Commissioner, members of the Board, every auditor, every officer and servant of the Board and every other person duly appointed to discharge any duties imposed on him by this Act or any rule or order made thereunder, shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

(2) Every mutawalli of a wakf, every member of managing committee, whether constituted by the Board or under any deed of wakf, every Executive Officer and every person holding any office in a wakf shall also be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860)”.

63. Amendment of section 66A.—In section 66A of the principal Act,—

(a) in sub-section (1),—

(i) for the words and figures “under the State Reorganisation Act, 1956 (37 of 1956)”, the words “under any law providing for reorganisation of State” shall be substituted;

- (ii) for the figures, letters and words "1st day of November, 1956", the words "the date of such reorganisation" shall be substituted ;
- (iii) for the words "it should be reconstituted or reorganised as an intra-State Board", the words "it should be reconstituted as an intra-State Board" shall be substituted ;
- (iv) for the words "such reconstitution and reorganisation, as the case may be", the words "such reconstitution" shall be substituted ;
- (b) in sub-section (3),—
 - (i) in clause (b), for the words "reconstitution and reorganisation", the words "reconstitution" shall be substituted ;
 - (ii) in clause (f), for the words and figures "subject to the provisions of section 111 of the States Reorganisation Act, 1956 (33 of 1956)", "subject to the provisions of law providing for the reorganisation of the concerned State" shall be substituted.

64. *Amendment of section 64B.*—In sub-section (1) of section 66B of the principal Act, for the words and figures "the States Reorganisation Act, 1956 (37 of 1956), this Act is, as from the 1st day of November, 1956, applicable", the words "any law providing for the reorganisation of any State, this Act is, as from the date on which that law comes into force, applicable" shall be substituted.

65. *Insertion of new section-65D to 65H.*—After section 65C of the principal Act, the following sections shall be inserted, namely:—

"66D. *Powers of Board and Wakf Commissioner to require copies of documents, etc., to be furnished.*—Notwithstanding anything contained in any law for the time being in force, it shall be lawful for the Board, or the Wakf Commissioner to require any person having the custody of any record, register, report or other document, relating to a wakf or any immovable property which is wakf property, to furnish, subject to the payment of necessary costs, copies of, or extracts from, any such record, register, report or document and every person to whom such a requisition is made, shall furnish, as soon as may be practicable, to the Board or Wakf Commissioner copies or extracts from the required record, report or other document."

66E. *Institution of suit or legal proceedings in certain cases.*—Notwithstanding anything contained in any other law for the time being in force, no suit or other legal proceeding in respect of the administration or management of a wakf, or any other matter or dispute for the determination or decision of which provisions have been made in this Act, shall be instituted in any court or Tribunal except under, and in accordance with, the provision of this Act.

66F. *Power of Central Government to constitute common Board.*—(1) Where the Central Government is satisfied that by reason of—

- (i) the smallness of the Muslim population in two or more States,
- (ii) the slender resources of the Wakf in such States, and
- (iii) the disproportion between the number and income of the wakf and the Muslim population in such State,

it is expedient in the interests of the wakfs in the State and the Muslim population of such States, to have, instead of separate Boards for each of such States, a common Board, it may, after consultation with the Government of each of the concerned States, establish, by notification in the Official Gazette, a common Board for such States as it may deem fit, and may, by the same or any subsequent notification specify the place at which the principal office of such common Board shall be located.

(2) Every common Board established under sub-section (1) shall, as far as practicable, consist of the persons specified in sub-section (1), or, as the case may be, sub-section (2) of section 10.

(3) Whenever any common Board is established under sub-section (1),—

(a) all powers vested in the State Government under any deed of wakf or any provision of law for the time being in force relating to wakfs, shall become transferred to, and vested in the Central Government and, there upon, references in such deed of wakf or law to the State Government shall be construed as references to the Central Government ;

Provided that while establishing a common Board for two or more States, the Central Government shall ensure that at least one representative of each of the concerned States is included as a member of the Board ;

(b) references in this Act to a State shall be construed as references to each of the States for which the common Board has been established ;

(c) the Central Government may, without prejudice to any rule applicable to a Board in a State, make, by notification in the Official Gazette, rules regulating the conduct of business by, and affairs of, the common Board.

(4) The common Board shall be a body corporate, with objects not confined to one State, having perpetual succession and a common seal with power to acquire and hold property and to transfer any such property, subject to such conditions and restrictions as may be specified by the State Government, and shall "by the said name sue or be sued."

66G.—*Period of limitation for recovery of wakf properties to be thirty years.*—Notwithstanding anything contained in the Limitation Act, 1963 (36 of 1963), the period of limitation for any suit for possession of

immovable property comprised in any wakf or possession of any interest in such property shall be a period of thirty years and such period shall begin to run when the possession of the defendant becomes adverse to the plaintiff.

66H.—*Special provision as to evacuee wakf properties.*—The provisions of this Act shall apply, and shall be deemed always to have applied, in relation to any evacuee property within the meaning of clause (f) of section 2 of the Administration of Evacuee Property Act, 1950 (31 of 1950), which immediately before it became such evacuee property within the said meaning was property comprised in any wakf and, in particular, any entrustment (whether by transfer of any documents or in any other manner and whether generally or for specified purposes) of any such property to a Board made before the commencement of the Wakf (Amendment) Act, 1984 in pursuance of the instructions of the Custodian under the Administration of Evacuee Property Act, 1950 shall have, and shall be deemed always to have had, notwithstanding anything contained in any other provision of this Act, effect as if such entrustment had operated to.—

(a) vest such property in such Board in the same manner and with the same effect as in a trustee of such property for the purposes of sub-section (1) of section 11 of the Administration of Evacuee Property Act, 1950 (31 of 1950), with effect from the date of such entrustment, and

(b) authorise such Board to assume direct management of the wakf concerned for so long as it might deem necessary”.

66. *Amendment of section 67.*—In sub-section (2) of section 67 of the principal Act,—

(i) clause (d) shall be omitted ;

(ii) for clause (n), the following clauses shall be substituted, namely:—

“(n) the manner of election of members of the Board by means of a single transferable vote to be prescribed under section 10 ;

(o) the scale of pay, allowances and other conditions of service of officers and other employees appointed by the Wakf Commissioner under section 21B ;

(p) the conditions and restrictions subject to which the Wakf Commissioner and any authorised officer of the Board may inspect any record, register or other document in a public office in pursuance of the provisions of section 22B ;

(q) the conditions subject to which an Executive Officer may be appointed under section 26A and salaries and allowances of such Executive Officer ;

(r) the manner in which an inquiry may be held by the Wakf Commissioner under section 26B with regard to wakfs which appear to have ceased to exist or in relation to buildings, or other places which were being used for religious purposes or instruction or for charity, which have ceased to be used for that purpose ;

(s) the manner in which the Wakf Commissioner may give notice to the mutawalli under sub-section (2) of section 31 ;

(t) the form in which, and the time within which, a separate budget for wakfs under the direct management of the Board shall be prepared as required by section 31A ;

(u) the intervals at which accounts of wakfs may be audited in pursuance of the provisions of sub-section (1) of section 33 ;

(v) the time within which the sale of any property is to be confirmed under the first proviso to sub-section (2) of section 36A, and the manner in which the approval given under sub-section (3) of that section shall be published ;

(w) the manner of service of notice issued under sub-section (1) of section 36D and the manner in which any inquiry is to be made under sub-section (3) of that section ;

(x) the other matters which may be specified in the report submitted under sub-section (3) of section 43A ;

(y) manner of publication of order made under sub-section (2) of section 43C ;

(z) the manner in which consultation may be made with a mutawalli under sub-section (1) of section 43F ;

(za) manner of publication of order made under sub-section (2) of section 43F ;

(zb) the rate at which contribution is to be made by a mutawalli under section 46 ;

(zc) time within which application is to be made to the Tribunal under sub-section (2) of section 55 for the determination of any dispute, question or other matter relating to a wakf or wakf property ;

(zd) the procedure which a Tribunal shall follow under sub-section (6) of section 55 ;

(ze) the form in which an annual report is to be submitted under section 63A and the matters which such report shall contain ;

(zf) rules regulating the conduct of business by, and affairs of, the common Board under clause (c) of sub-section (3) of section 66F ;

(zg) any other matter which is required to be, or may be, prescribed”.

67. *Insertion of new section 67A.*—After section 67 of the principal Act, the following section shall be inserted, namely:—

“67A.—*Rules made by the Central Government to be laid before Parliament.*—Every rule made by the Central Government under section 66F shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule”.

68. *Amendment of section 69.*—In section 69 of the principal Act, in sub-section (1), after clause (3), the following clause shall be inserted, namely:—

“(3A) On and from the commencement of the Wakf (Amendment) Act, 1984, sections 92 and 93 of the Code of Civil Procedure, 1908 (5 of 1908);”;

भाग 7—भारतीय निर्वाचन आयोग (Election Commission of India) की वैधानिक अधिसूचनाएं तथा अन्य निर्वाचन सम्बन्धी अधिसूचनाएं

—शून्य—

अनुपूरक

—शून्य—